To: Michael.McAdams[redacted] Simon, Karl[Simon.Karl@epa.gov]
From: Argyropoulos, Paul
Sent: Fri 12/20/2013 11:54:06 AM
Subject: RE: intermediate feedstocks.

Hi Mike.

Crazy busy week. Let's catch up on this early in the new year.

Merry Christmas.

Paul

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Michael.McAdams@[redacted]
Sent: Thursday, December 12, 2013 10:05 AM
To: Simon, Karl; Argyropoulos, Paul
Subject: intermediate feedstocks.

Karl, Paul, My hats off to you all for a very difficult and busy couple of months. Sorry to add to the myriad of issues you are currently trying to tackle. My members are extremely concerned with the ramifications of the current discussions concerning the definitions and applications for gaining access to RIN support in the discussion concerning intermediate feedstocks. In working with legal counsel and over a dozen companies we have prepared a white paper for your consideration which I have attached.

As I know the holidays our upon us and your have multiple other challenges I wanted to send you the document for your review. Obviously at the appropriate time I would be more than delighted to bring in a reflective delegation who would be impacted with a restrictive interpretation to discuss the finer point. Thank you.

Michael McAdams | **Holland & Knight**
Sr Policy Advisor
800 17th Street, NW Suite 1100 | Washington DC 20006
Phone 202.469.5140 | Fax 202.955.5564
michael.mcadams@hklaw.com | www.hklaw.com

Add to address book | View professional biography

To: lschafer@[redacted]
Cc: Anne Steckel[redacted]
From: Argyropoulos, Paul
Sent: Tue 4/2/2013 11:29:37 AM
Subject: RE: Busy Monday

I would say it's general market conditions and also RIN prices

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: larryschafer[redacted]
Sent: Tuesday, April 02, 2013 7:29 AM
To: Argyropoulos, Paul
Cc: Anne Steckel
Subject: RE: Busy Monday

Thanks ... is the topic the 2013 RVO volume levels ... or RIN prices in general?

========================
Larry Schafer

The Diamond Group
LSchafer@DCDiamondGrouup.com

National Biodiesel Board
[redacted]

(b) (6)
O[redacted]

====================

On Apr 2, 2013 7:26 AM, "Argyropoulos, Paul" <Argyropoulos.Paul@epa.gov> wrote:

Yes, it's still on. I'll let Cindy know.

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Larry Schafer [m[redacted] (b) (6)
Sent: Tuesday, April 02, 2013 7:17 AM
To: Argyropoulos, Paul
Subject: RE: Busy Monday

Thank you Paul …

That means a lot to me …

Also … is the meeting still on for Thursday with Gina?

We haven't received anything from Cindy .

Larry Schafer

National Biodiesel Board

[redacted]

Biodiesel – America's Advanced Biofuel!

www.americasadvancedbiofuel.com

1331 Pennsylvania Ave. NW

Suite 505

Washington DC 20004

From: Argyropoulos, Paul [mailto:Argyropoulos.Paul@epa.gov]
Sent: Tuesday, April 02, 2013 7:05 AM
To: Larry Schafer
Subject: RE: Busy Monday

Wow, and since you sent a picture I'm assuming this isn't an "April Fools" prank. Congratulations!!!!!!!!!!! What a great looking boy (thanks to your wife). I'm assuming everything is OK and Mom and Christian are all well even though Christian decided to arrive a little early.

Please take some time and enjoy the new arrival. Before you know it he'll be 20 and you'll say you wish you had some more time during their younger years.

All the best and Congrats!!!

Paul

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Larry Schafer (b) (6) [redacted]
Sent: Tuesday, April 02, 2013 5:34 AM
To: Argyropoulos, Paul
Subject: Busy Monday

Hey Paul,

I will be back in the saddle today (Tuesday) …. [redacted]

[redacted]

[redacted]

Larry Schafer

The Diamond Group

A Washington DC Based Consulting Group

[redacted]

1331 Pennsylvania Ave. NW

Suite 505

Washington DC 20004

To: Brian Jennings[[redacted]
Cc: Ron Lamberty[[redacted]
From: Argyropoulos, Paul
Sent: Thur 3/28/2013 10:45:53 AM
Subject: RE: Mtg with Gina next week

Thanks Brian. Enjoy the vacation. I'm jealous.

See you next week Ron.

Best, Paul

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Brian Jennings [[redacted]
Sent: Wednesday, March 27, 2013 7:50 PM
To: Argyropoulos, Paul
Cc: Ron Lamberty
Subject: Mtg with Gina next week

Paul, thanks for the heads up on the mtg. Ron Lamberty, ACE Sr Vice President, and our RIN guru, will attend (don't tell anyone but I will be in Mexico on vacation w my family then).

Sent from my Verizon Wireless 4GLTE smartphone

To: Michael.McAdams[redacted]
From: Argyropoulos, Paul
Sent: Fri 12/20/2013 1:15:36 PM
Subject: RE: intermediate feedstocks.

Great. Enjoy your time and I'll see you next year.

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Michael.McAdams[redacted]
Sent: Friday, December 20, 2013 7:46 AM
To: Argyropoulos, Paul
Subject: Re: intermediate feedstocks.

I am at the inn laws for xmas. Hope you and your families have a good holiday. We certainly all deserve some time off after this year. All the best my friend. Catch up in the new year.

Sent using BlackBerry

From: Argyropoulos, Paul [mailto:Argyropoulos.Paul@epa.gov]
Sent: Friday, December 20, 2013 06:54 AM Eastern Standard Time
To: McAdams, Michael J [redacted]
Subject: RE: intermediate feedstocks.

Hey,

Not sure if you are around Monday but if so maybe we can grab coffee or lunch..,……………

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Michael.McAdams@(b) (6) [redacted]
Sent: Thursday, December 12, 2013 10:05 AM
To: Simon, Karl; Argyropoulos, Paul
Subject: intermediate feedstocks.

Karl, Paul, My hats off to you all for a very difficult and busy couple of months. Sorry to add to the myriad of issues you are currently trying to tackle. My members are extremely concerned with the ramifications of the current discussions concerning the definitions and applications for gaining access to RIN support in the discussion concerning intermediate feedstocks. In working with legal counsel and over a dozen companies we have prepared a white paper for your consideration which I have attached.

As I know the holidays our upon us and your have multiple other challenges I wanted to send you the document for your review. Obviously at the appropriate time I would be more than delighted to bring in a reflective delegation who would be impacted with a restrictive interpretation to discuss the finer point. Thank you.

Michael McAdams | **Holland & Knight**
Sr Policy Advisor
800 17th Street, NW Suite 1100 | Washington DC 20006
Phone 202.469.5140 | Fax 202.955.5564
michael.mcadams@hklaw.com | www.hklaw.com

Add to address book | View professional biography

To: Michael.McAdams@[redacted]
From: Argyropoulos, Paul
Sent: Tue 3/26/2013 1:00:16 PM
Subject: RE: Argus US Ethanol PDF

Thanks. And the fun continues.

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Michael.McAdams@[redacted]
Sent: Tuesday, March 26, 2013 8:39 AM
To: Argyropoulos, Paul
Subject: FW: Argus US Ethanol PDF

Paul: You should read Howard Gruenspec's quotes in this. I am sure Bob's head is exploding.

Michael McAdams | **Holland & Knight**
Sr Policy Advisor
800 17th Street, NW Suite 1100 | Washington DC 20006
Phone 202.469.5140 | Fax 202.955.5564
michael.mcadams@hklaw.com | www.hklaw.com

Add to address book | View professional biography

From: Michael Whitney [mailto[redacted]
Sent: Monday, March 25, 2013 5:00 PM

To: McAdams, Michael J [redacted]
Cc: Tyson Redpath
Subject: FW: Argus US Ethanol PDF

Check out the quote from the EIA guy saying that much of the mandate is going to get waived or modified…

I'm not sure why some random EIA official is saying something that can and may have had a market bearing impact. I can't imagine that the White House or EPA would want those comments out in the ether.

MW

From: Argus Media Email System [[redacted]
Sent: Friday, March 22, 2013 7:44 PM
To: subscriptions@petroleumargus.com
Subject: Argus US Ethanol PDF

Do not reply to this email

For Argus US Ethanol content questions:

Emily Lewis

[redacted]

Support contact details:

(b) (6) [redacted]

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-

To: Larry Schafer [redacted]
From: Argyropoulos, Paul
Sent: Wed 1/30/2013 7:00:26 PM
Subject: RE: Follow up

Not sure I'm preparing anything yet. Maybe a few slides.

However, what are the "6" things you wanted me to cover?

Volume Standards
New Pathway Rules
Home heating oil rule
Etc??????

BTW -- I will not address RIN Integrity (Byron is) nor will I address wastes.

Thanks, Paul

Paul N. Argyropoulos
Senior Policy Advisor
Office of Transportation & Air Quality
US Environmental Protection Agency
Office Phone: 1-202-564-1123
Mobile: 202-577-9354
Email: argyropoulos.paul@epa.gov
Website: www.epa.gov/otaq

From: Larry Schafer [redacted]
To: Paul Argyropoulos/DC/USEPA/US@EPA
Date: 01/29/2013 11:05 AM
Subject: RE: Follow up

Perfect ... that works

If you do a PPT, they can drop your presentation into the video ...
(like magic) ...

We are in Suite 505 ...

Thanks ...

Larry Schafer
National Biodiesel Board
[redacted]
Biodiesel America s Advanced Biofuel!
www.americasadvancedbiofuel.com

1331 Pennsylvania Ave. NW
Suite 505

Washington DC 20004
-----Original Message-----
From: Argyropoulos.Paul@epamail.epa.gov
[mailto:Argyropoulos.Paul@epamail.epa.gov]
Sent: Tuesday, January 29, 2013 11:04 AM
To: larryschafer[redacted]
Subject: Re: Follow up

How about 11.
Paul N. Argyropoulos
Senior Policy Advisor
Office of Transportation and Air Quality US. EPA
Email: argyropoulos.paul@epa.gov
Phone: 1-202-564-1123
Mobile: 1-202-577-9354

----- Original Message -----
From: "Larry Schafer" [redacted]
Sent: 01/29/2013 03:44 PM GMT
To: Paul Argyropoulos
Subject: Re: Follow up

What time works ...

------Original Message------
From: Argyropoulos.Paul@epamail.epa.gov
To: Larry Schafer
Subject: Re: Follow up
Sent: Jan 29, 2013 10:40 AM

Yes.
Paul N. Argyropoulos
Senior Policy Advisor
Office of Transportation and Air Quality US. EPA
Email: argyropoulos.paul@epa.gov
Phone: 1-202-564-1123
Mobile: 1-202-577-9354

----- Original Message -----
From: "Larry Schafer" [redacted]
Sent: 01/29/2013 03:38 PM GMT
To: Paul Argyropoulos
Subject: Follow up

Paul

Any chance u can do the filming on Thursday rather than Friday?

Larry Schafer

The Diamond Group

-- and --
National Biodiesel Board

(b) (6)
[redacted]

Larry Schafer

The Diamond Group
-- and --
National Biodiesel Board

(b) (6)
[redacted]

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Brent Erickson
Sent: Sat 11/16/2013 12:53:38 AM
Subject: FW: RFS Activity Update - Week of 11.11.13
EPA RVO announcement Press Clips.docx

EPA proposes cut in ethanol mandate, handing victory to oil (Politico Pro)

Ethanol's winning streak ends (Politico Pro)

Obama administration proposes reduction of ethanol in gasoline (McClatchy)

EPA proposes scaling back amount of ethanol that must be blended in gasoline (Des Moines Register)

EPA proposes reducing U.S. ethanol requirements in 2014 (UPI)

U.S. EPA to unveil biofuel rules as soon as Friday (Reuters)

Biofuels Producers Blame Big Oil for EPA Plan to Cut Renewable-Fuel Standard (National Journal)

EPA Announces 2014 RVO Numbers for RFS (Domestic Fuel)

EPA proposes smaller targets for biofuel use (Washington Post)

Proposal would lower amount of ethanol and other biofuels required by law for first time (Washington Post)

EPA retreats on ethanol mandate (The Hill)

Renewable Fuel Quote Cut in EPA Change Sought by Refiners (Bloomberg)

EPA proposes trim to renewable fuels blend; refiners mixed (Market Watch)

EPA Shrinks Ethanol Mandate for First Time (Wall Street Journal)

Fuels America members talk about EPA proposal, vow to fight back (Biomass Magazine)

Oil companies win RFS round one (Agriculture.com)

EPA proposes to reduce 2014 renewable fuels target (Cattle Network)

EPA Proposes Reducing Biofuel Mandate (ABC News)

Obama administration announces lower quotas for ethanol in gasoline (The Guardian)

EPA 2014 RVO Proposal Clips
November 15, 2013

Print & Online (Full stories pasted below)

- EPA proposes cut in ethanol mandate, handing victory to oil (Politico Pro)
- Ethanol's winning streak ends (Politico)
- Obama administration proposes reduction of ethanol in gasoline (McClatchy)
- EPA proposes scaling back amount of ethanol that must be blended in gasoline (Des Moines Register)
- EPA proposes reducing U.S. ethanol requirements in 2014 (UPI)
- U.S. EPA to unveil biofuel rules as soon as Friday (Reuters)
- Biofuels Producers Blame Big Oil for EPA Plan to Cut Renewable-Fuel Standard (National Journal)
- EPA Announces 2014 RVO Numbers for RFS (Domestic Fuel)
- EPA proposes smaller targets for biofuel use (Washington Post)
- Proposal would lower amount of ethanol and other biofuels required by law for first time (Washington Post)
- EPA retreats on ethanol mandate (The Hill)
- Renewable Fuel Quota Cut in EPA Change Sought by Refiners (Bloomberg)
- EPA proposes trim in renewable fuels blend; refiners mixed (Market Watch)
- EPA Shrinks Ethanol Mandate for First Time (Wall Street Journal)
- EPA proposes first-ever rollback of renewable fuel targets (E&E)
- Prairies Vanish in the U.S. Push for Green Energy (Sci-Tech Today)
- Fuels America members talk about EPA proposal, vow to fight back (Biomass Magazine)
- Oil companies win RFS round one (Agriculture.com)
- EPA proposes to reduce 2014 renewable fuels target (Cattle Network)
- EPA Proposes Reducing Biofuel Mandate (ABC News)
- Obama administration announces lower quotas for ethanol in gasoline (The Guardian)
- Parties Line Up to Support, Criticize Proposed 2014 RVO (Opis)

Print/Online Clips

EPA proposes cut in ethanol mandate, handing victory to oil
POLITICO Pro
November 15, 2013

The Environmental Protection Agency on Friday proposed the first cut in the amount of ethanol that must be blended into the nation's gasoline supply — a shift that marks a huge blow to corn growers and puts President Barack Obama uncharacteristically on the side of the oil industry.

EPA's action was widely expected, and came after a flurry of White House lobbying in the past two months by both the ethanol industry and opponents of the agency's biofuels mandate, including oil companies, food and soft drink manufacturers, Delta Air Lines and AAA.

The agency said it was reacting to market conditions that include an unexpected slowdown in consumers' demand for gasoline, which means the ethanol supply could soon outpace the amount motorists could actually use. The oil industry has warned that the result could be a spike in gasoline prices unless the government scales back the ethanol requirement — a phenomenon that mandate opponents call the "blend wall."

EPA made some last-minute changes aimed at softening the blow to ethanol producers, especially the non-corn portion of the market known as "advanced" biofuels. But bitterly disappointed ethanol supporters said the administration was succumbing to a fear campaign organized by Big Oil.

"EPA is proposing to place the nation's renewable energy policy in the hands of the oil companies," said Bob Dinneen, CEO of the Renewable Fuels Association, a major ethanol industry group. "That would be the death of innovation and evolution in our motor fuel markets, thus increasing consumer costs at the pump and the environmental cost of energy production. This proposal cannot stand."

"While only a proposed rule at this point, this is the first time that the Obama administration has shown any sign of wavering when it comes to implementing the RFS," said Brooke Coleman, executive director of the Advanced Ethanol Council.

But opponents of the mandate said they still want Congress to scrap the mandate entirely, and the oil industry is threatening to sue EPA if the final 2014 requirements include too many gallons for certain types of ethanol.

"For the first time EPA has acknowledged that the blend wall is a dangerous reality and must be addressed to avoid serious impacts on America's fuel supply and harm to America's consumers," American Petroleum Institute CEO Jack Gerard told reporters during a conference call that included other mandate critics, such as the National Turkey Federation and the Chicken Council. But API and others are "continuing our call for Congress to act now" to repeal the mandate, he said.

Leaders of the turkey and chicken groups said they were focusing on repealing the mandate rather than litigation.

Friday's proposal concerns a program, known as the renewable fuels standard, that Congress created in 2005 and expanded in 2007. Until now, the mandate has required gasoline and diesel refiners to blend ever-increasing amounts of ethanol into their fuel, an amount that hit 16.55 billion gallons this year and had been scheduled to reach 18.15 billion gallons next year.

Instead, EPA is proposing to set next year's requirement at 15 billion to 15.52 billion gallons. The midpoint of the range is 15.2 billion gallons, equal to what the mandate was in 2012.

It would be the first year-to-year drop in the mandate since Congress created the program in its current form. It could also tamp down efforts by some lawmakers to repeal the program entirely, since EPA is showing willingness to adjust the numbers on its own.

Within the overall ethanol mandate, the agency also wants to set separate ranges for individual segments of the industry. For example, refiners would have to use 2 billion to 2.51 billion gallons of advanced biofuels — a drop from this year's mandate of 2.75 billion gallons for that segment, and an even sharper drop from the 3.75 billion gallons that Congress originally envisioned for next year.

For one type of advanced biofuel, cellulosic ethanol made from plants like switchgrass and cornstalks, the mandate would be 8 million to 30 million gallons, and the mandate for biomass-based diesel would be 1.28 billion. The rest of the amount for advanced biodiesel could come from Brazilian ethanol made from sugarcane.

EPA expects to make a final decision by this spring.

Agency leaders said they're still committed to efforts to give ethanol a greater share of the market, such as by encouraging the sale of gasoline containing higher blends of ethanol than the now-common 10 percent. But they were short on specifics of how exactly that would work, even though EPA has taken steps to allow the sale of 15 percent ethanol blends, which it considers safe for newer cars.

Congress's intent in 2007 was to wedge biofuels into the nation's fuel mix for reasons that included cutting reliance on foreign oil imports, as well as cutting greenhouse gas emissions from cars. But since then the energy market has taken some unexpected turns: Oil imports are falling sharply, domestic drilling is up and gasoline demand is flat as the economy remains slow and cars have become more fuel-efficient.

At the same time, producers of advanced biofuels have failed to ramp up their production to commercial scale, with cellulosic ethanol in particular still struggling to get to its feet.

Corn ethanol, on the other hand, has thrived and production has surged. But gasoline with higher blends of ethanol — such as 15 or 85 percent — have not taken hold in the market.

Ethanol's winning streak ends
POLITICO
November 15, 2013

So much for the fuel of the future.

By pulling back Friday on an effort to guarantee ethanol an ever-growing share of the nation's gasoline supply, the Obama administration could be putting a burgeoning industry into the deep freeze, just six years after biofuels drew strong support from both parties in Congress.

That chill will certainly affect the industry's powerhouse, corn ethanol. But the risk is far greater for smaller sectors of the industry still struggling to get out of the gate — those aimed at producing next-generation biofuels like "cellulosic" ethanol, made from ingredients like switchgrass and corn stalks.

Reasons for the turnaround are many: The boom in domestic oil drilling has dimmed the urgency to find other alternatives to Mideast petroleum, demand for gasoline has slumped, and criticism of the environmental impacts of corn ethanol has dimmed its luster nationally. Corn-based biofuel has for years been untouchable politically, as presidential candidates seemed to overpromise on ethanol every four years in Iowa — but even that clout may be waning as both the tea partiers on the right and greens on the left push to abandon it.

At the same time, ethanol has faced a growing counterattack from the oil industry, which argues that the mandate could cause gasoline prices to spike. Other opponents include the livestock, poultry and restaurant industries, which say turning corn into fuel drives up the cost of food.

Ethanol supporters say that if Friday's decision is the start of a lasting trend, both jobs and the promise of a new form of energy could be lost to other countries as the shifting federal winds scare off investment in advanced biofuels plants.

"The short answer is that it means stagnation in the biofuels market," said Bob Dinneen, president of the Renewable Fuels Association, one of the main ethanol advocacy groups. "So it's no growth, and no innovation or evolution of the industry into advanced biofuels or cellulosic ethanol. It's really about the future.

"Boy, my goodness, are the oil companies going to benefit from this," Dinneen added after the EPA announced its proposal Friday afternoon. "We're all just sort of scratching our heads here wondering why this administration is telling us to produce less of a clean-burning American fuel."

The administration has been promoting ethanol on multiple fronts, including requiring refiners to blend increasing amounts of ethanol into gasoline and pushing to allow higher-percentage ethanol blends to be sold at gas pumps. But EPA sent a very different signal Friday when it trimmed the blending mandate, the first year-to-year decline since Congress expanded the ethanol requirement in 2007.

"I don't know if the EPA is aiming for uncertainty, but they may inadvertently create it," said Jan Koninckx, the global business director of biorefineries for DuPont. "The impact could be that another country will lead this rather than the U.S."

Hugh Welsh, president of DSM North America, a company heavily invested in cellulosic biofuels, said investors take note of any hints in Washington about the future of the blending mandate, formally known as the renewable fuel standard.

"Everybody that I speak to in the investment bank community … their first question is always, 'What's happening with this renewable fuel standard?'" Welsh said. "'What's the president's position on this?'"

As recently as the 2012 election, Obama's position seemed clear: He pledged to increase the use of biofuels and to support the mandate.

EPA leaders said Friday that they're still committed to ensuring that ethanol has a future in the U.S. fuel mix.

"Biofuels are a key part of the Obama administration's 'all of the above' energy strategy, helping to reduce our dependence on foreign oil, cut carbon pollution and create jobs," agency Administrator Gina McCarthy said in a statement. She said the agency "continues to support the RFS goal of increasing biofuel production and use."

Ethanol's critics say the world is just not what Congress expected in 2005, when it created the mandate, and in 2007, when it expanded it into its current form. Back then, oil imports were soaring, and gasoline demand was expected to continue to grow.

"Just about everything … that that law was predicated on, the assumptions have proved to be null and void," said Charlie Drevna, president of the American Fuel & Petrochemical Manufacturers, a major petroleum trade group.

One complaint by the oil industry involves something it calls the "blend wall": With gasoline demand flat-lining, and most commonly sold gasoline containing only 10 percent ethanol, it will soon be physically impossible to blend more ethanol into the nation's fuel supply. Once that line is crossed, the oil companies say, refiners might have to cut production and gasoline prices will spike —the kind of headache no president wants to deal with.

But biofuel supporters say the administration is just rewarding the oil industry for dragging its feet on making higher-percentage ethanol fuels available. They say the mandate was always meant to encourage greater use of 15-percent or 85-percent ethanol blends — known as E15 and E85, respectively.

Those more potent blends remain niche or regional products, even though EPA has agreed to approve the use of E15 in newer cars despite the objections of the oil industry and some automakers. One reason: Not enough pumps, pipelines and other infrastructure exist to let motorists buy them.

DuPont's Koninckx said the oil industry groups complaining about the blend wall have known about the mandate for years, "and now they've complained about the fact that they haven't prepared for it."

"If the EPA says, 'OK, the oil industry says they can't do it, we won't ask them,' then they get away with it," he said.

Senate Agriculture Chairwoman Debbie Stabenow (D-Mich.) agreed Friday, saying that "the so-called blend wall is a crisis manufactured by the oil industry, which is interested in eliminating the competition so they can continue reaping even greater windfall profits."

Lawmakers in 2007 had specifically rejected allowing EPA to use factors like the blend wall to justify reducing the corn-ethanol portion of the mandate, Dinneen said.

"If you say the ability to distribute gasoline is a factor of the program," as EPA did in Friday's action, "then you've turned the program over to the oil companies," Dinneen said.

But it's unclear just what EPA could do to force the oil industry to acquiesce to adding the infrastructure to sell fuels that carve out more of its market share. EPA itself seems unsure.

There are "over 3,000 E85 stations currently operating in the country. We recognize that we want that market to grow and are looking for … good ideas from people for how to get those markets to grow," a senior administration official said Friday.

Both sides say ethanol will remain a part of the U.S. fuel supply even if Congress were to step in and scrap the mandate entirely. Consumers are used to the 10 percent ethanol blends, and the supply is certainly there.

But just maintaining the status quo is not what ethanol supporters expected from this administration. One ethanol sector, the biodiesel industry, said this week that even limiting its portion of the mandate to last year's level could wipe out 8,000 to 12,000 jobs, equaling about $500 million in lost wages.

The industry is also struggling with a slower than expected start for the more advanced — and potentially greener — forms of ethanol like cellulosic. Instead, the mandate mostly led to creation of more corn ethanol.

Under the 2007 law, the cellulosic biofuel industry was supposed to be producing 500 million gallons in 2012, rising to 1 billion gallons this year. Instead, last year's total was 20,069 gallons, and this year's production will also fall way short.

That wasn't the only shortfall. "One of the big promises that wasn't fulfilled with the RFS was the concept of drop-in biofuels, which would have really had a dramatic impact on the blend wall," said Patrick Kelly, a senior policy adviser with the American Petroleum Institute. "Drop-in" biofuels could simply be put into existing fuel pumps and used like regular gasoline, diesel or jet fuel, rather than requiring separate infrastructure the way corn ethanol does.

Without more progress for the advanced fuels, many of the administration's green allies are loathe to throw their support behind biofuels when that essentially means championing corn ethanol, which they see as having a dubious environmental record.

That leaves biofuel producers like Welsh wondering where their future lies.

His company has invested $150 million in U.S. projects, and various companies have spent billions of dollars on advanced ethanol in the last two years, Welsh said. His company plans to produce commercial quantities of cellulosic ethanol at a plant in Iowa next year.

Now they and others in the advanced biofuels industry are likely to start looking outside of the U.S., Welsh said. The "gasoline industry enjoys a monopoly here," he said.

Koninckx said that's what Big Oil wants.

"What the opponents of renewable fuel, the people who want to keep the status quo will get, is uncertainty," he added. "And the uncertainty helps them. Because it will shy away investments. It will shy away initiative."

Obama administration proposes reduction of ethanol in gasoline
McClatchy
November 15, 2013

WASHINGTON – The Obama Administration today proposed the first-ever reduction in the

amount of ethanol in the gasoline supply, signaling retreat from the Renewable Fuel Standard passed by Congress in 2007.
The Environmental Protection Agency wants 15.21 billion gallons of renewable fuels blended into gasoline and diesel next year, down from 16.55 billion gallons this year. Most of it is corn-based ethanol.

The EPA is proposing the biofuel reduction as oil companies argue that if there is more than 10 percent ethanol in motor fuel it could cause engine damage, a potential issue that's known as the blend wall.

"For the first time, EPA has acknowledged that the blend wall is a dangerous reality and that breaching it would serious impacts on America's fuel supply and would be harmful for American consumers," said Jack Gerard, who leads the American Petroleum Institute, the oil industry's main trade group.

Biodiesel advocates said the ethanol is not a problem for engines. The Advanced Ethanol Council, a trade group, said today the oil industry is using "imaginary blend walls," to try to keep biofuels from cutting into oil profits.

The ethanol group expressed hope that EPA could be convinced to change course before finalizing its decision.

The EPA said Friday that it will seek answers on how to deal with the 10 percent blend wall. Nearly all gasoline sold in the U.S. now has up to 10 percent ethanol, the agency said, and as vehicle fuel economy increases and demand for gasoline declines adding additional biofuels would push it higher.

So even though biofuel use should be growing under the targets set by the Renewable Fuel Standard passed by Congress six years ago, the EPA said that isn't feasible because of the blend wall.

EPA proposes scaling back amount of ethanol that must be blended in gasoline
Des Moines Register
November 15, 2013

The U.S. Environmental Protection Agency has proposed scaling back the amount of ethanol that is blended into gasoline.

The proposal seeks comment on a range of total renewable fuel volumes for 2014 and proposes a level within that range of 15.21 billion gallons. Congress initially wrote an 18.15 billion gallon mandate.

The reaction initially has been critical:

“Today’s RFS announcement represents the biggest policy reversal of the entire Obama Administration,” stated Monte Shaw, Executive Director of the Iowa Renewable Fuels Association. “The EPA proposal turns the RFS on its head, runs counter to the law and is a complete capitulation to Big Oil. The Obama Administration needs to conduct a thorough soul-searching and decide whether they are serious about cleaner fuels, consumer choice, and cutting petroleum dependence, or whether they truly want to adopt the Big Oil status quo. There is still time to restore Congressional intent and common sense before the rule is finalized.”

The proposal lowers the “corn ethanol” level from 13.8 billion gallons in 2013 to only 13 billion gallons in 2014. The proposal also freezes the biodiesel level at 1.28 billion gallons despite the fact the biodiesel industry is currently operating at an annualized rate of 2 billion gallons.

Here’s the release:

Proposal Seeks Input to Address “E10 Blend Wall,” Reaffirms Commitment to Biofuels

WASHINGTON – The U.S. Environmental Protection Agency (EPA) today proposed for public comment the levels of renewable fuels to be blended into gasoline and diesel as required by Congress under the Energy Independence and Security Act of 2007. Developed with input from the U.S. Department of Energy and U.S. Department of Agriculture, the proposal seeks public input on annual volume requirements for renewable fuels in all motor vehicle gasoline and diesel produced or imported by the United States in 2014. The proposal seeks to put the Renewable Fuel Standard (RFS) program on a steady path forward – ensuring the continued long-term growth of the renewable fuel industry – while seeking input on different approaches to address the “E10 blend wall.”

“Biofuels are a key part of the Obama Administration’s “all of the above” energy strategy, helping to reduce our dependence on foreign oil, cut carbon pollution and create jobs,” said EPA Administrator Gina McCarthy. “We have made great progress in recent years, and EPA continues to support the RFS goal of increasing biofuel production and use. We look forward to working with all stakeholders to develop a final rule that maintains the strength and promise of the RFS program.”

The proposal discusses a variety of approaches for setting the 2014 standards, and includes a number of production and consumption ranges for key categories of biofuel covered by the RFS program. The proposal seeks comment on a range of total renewable fuel volumes for 2014 and proposes a level within that range of 15.21 billion gallons. Specifically, EPA is seeking comment on the following proposed volumes:

Category Proposed Volume a Range

Cellulosic biofuel 17 mill gal 8-30 million gallons

Biomass-based diesel 1.28 bill gal 1.28 billion gallons

Advanced biofuel 2.20 bill gal 2.0-2.51 billion gallons

Renewable fuel 15.21 bill gal 15.00-15.52 billion gallons

All volumes are ethanol-equivalent, except for biomass-based diesel which is actual

Nearly all gasoline sold in the U.S. is now "E10," which is fuel with up to 10 percent ethanol. Production of renewable fuels has been growing rapidly in recent years. At the same time, advances in vehicle fuel economy and other economic factors have pushed gasoline consumption far lower than what was expected when Congress passed the Renewable Fuel Standard in 2007. As a result, we are now at the "E10 blend wall," the point at which the E10 fuel pool is saturated with ethanol. If gasoline demand continues to decline, as currently forecast, continuing growth in the use of ethanol will require greater use of higher ethanol blends such as E15 and E85.

The Obama Administration has taken a number of steps to allow or encourage the use of these higher ethanol blends. In 2010, EPA approved E15 for use in vehicles newer than model year 2001 and developed labeling rules to enable retailers to market E15. In addition, since 2011, USDA has made funding available through the Rural Energy for America Program to support deployment of "flex-fuel" pumps that can dispense a range of ethanol blends. The 2014 proposal seeks input on what additional actions could be taken by government and industry to help overcome current market challenges, and to minimize the need for adjustments in the statutory renewable fuel volume requirements in the future. Looking forward, the proposal clearly indicates that growth in capacity for ethanol consumption would continuously be reflected in the standards set beyond 2014. EPA looks forward to further engagement and additional information from stakeholders as the agency works in consultation with the Departments of Agriculture and Energy toward the development of a final rule.

The renewable fuels program was developed by Congress in an effort to reduce greenhouse gas emissions and expand the nation's renewable fuels sector while reducing reliance on foreign oil. The standards determine how much renewable fuel a refiner or importer is responsible for, and are the standards designed to achieve the national volumes for each type of renewable fuel.

Today, in a separate action, EPA is also seeking comment on petitions for a waiver of the renewable fuel standards that would apply in 2014. EPA expects that a determination on the substance of the petitions will be issued at the same time that EPA issues a final rule establishing the 2014 RFS.

Once the proposal is published in the Federal Register, it will be open to a 60-day public comment period.

EPA proposes reducing U.S. ethanol requirements in 2014
UPI
November 15, 2013

WASHINGTON, Nov. 15 (UPI) -- The Obama administration Friday proposed reducing the mandated amount of ethanol to be used in the U.S. gasoline supply next year.

The Environmental Protection Agency recommended a Renewable Fuels Standard of 13.01 billion gallons, which is down from 14.4 billion gallons required this year.

The agency said the step back was in line with an overall dip in gasoline consumption in the United States and a "blend wall" indicating the gasoline market had all of the ethanol it needed to meet so-called E10 standards in which gasoline at the pump contains 10 percent ethanol.

"We have made great progress in recent years, and EPA continues to support the RFS goal of increasing biofuel production and use," EPA Administrator Gina McCarthy said in a statement. "We look forward to working with all stakeholders to develop a final rule that maintains the strength and promise of the RFS program."

The proposal will be open to public comment for 60 days, but the ethanol and oil industries were quick to express their views on the controversial mandate. The ethanol producers were unhappy with the EPA's proposal, while the oil lobby said the agency and Congress should scrap the RFA altogether.

"For the first time, EPA has acknowledged that the blend wall is a dangerous reality that must be addressed to avoid serious impacts on America's fuel supply and would be harmful for American consumers," said Jack Gerard, president and CEO of the American Petroleum Institute. "While the agency took a step in the right direction, more must be done to ensure Americans have the choice of ethanol-free gasoline for boats and small engines, and to bring their mandates closer to reality on cellulosic biofuels, which do not exist in commercial quantities."

The Renewable Fuels Association, however, said rolling back alternative fuels would lead to increased oil consumption and leave motorists at the mercy of volatile prices. "Cutting ethanol consumption by 1.39 billion gallons will increase demand for gasoline by 948 million gallons," the association said in a written statement. "According to Louisiana State University, that bump in demand for gasoline will increase gasoline prices by 5.7 cents per gallon across the board. As a result, American drivers will spend $7.6 billion more on gasoline purchases in 2014."

U.S. EPA to unveil biofuel rules as soon as Friday
Reuters
November 14, 2013

Nov 14 (Reuters) - U.S. environmental regulators are likely to unveil rules on Friday dictating how much ethanol and other renewable fuels must be blended into the U.S. gasoline supply in 2014, following weeks of lobbying by the oil and biofuels industries, industry sources who have been briefed on the process said on Thursday.

Environmental Protection Agency (EPA) Administrator Gina McCarthy testified before a House panel on Thursday that the proposed Renewable Fuel Standard (RFS) for 2014 was "soon to be proposed."

Some industry sources briefed by the agency said were told they would see the proposal as soon as Friday.

Rumors have circulated, based on a leaked draft of the EPA's proposals, that the agency will require less corn-based ethanol to be blended into U.S. gasoline in 2014 than the 14.4 billion gallons now required by law, and less than the 13.8 billion mandated for this year. Gasoline producers had pushed for a lower ethanol requirement, while ethanol makers and farmers had pushed to maintain current levels.

McCarthy added at the hearing of the House Science Committee that once released, the proposal will "take some time" to finalize.

Petroleum industry lobbyists have threatened to sue the EPA if the 2014 biofuel requirements are not finalized by the end of November.

McCarthy defended the administration's approval of the sale of E15, a gasoline blend with 15 percent ethanol content, for vehicles younger than the 2001 model year. Much of the gasoline sold in the United States contains 10 percent ethanol.

Opponents say the higher ethanol blend damages some car engines and is a way for regulators to favor the renewable fuels industry.

Congressman Jim Sensenbrenner, a Wisconsin Republican, asked McCarthy if the EPA planned to conduct further testing of the safety of the fuel.

McCarthy said the EPA stands by its current research with the Department of Energy. "We continue to believe E15 is appropriate and, where available, is being used by vehicles that are 2001 and younger," she said. About 70 percent of U.S. cars and light trucks are approved for the higher ethanol blend.

Pro- and anti-ethanol groups have made a fierce push to sway the EPA's proposal, which has been pending with the White House's Office of Management and Budget since Aug. 30.

Groups were still lobbying at the eleventh hour. Fuels America, a biofuel group, has aired television advertisements this week urging the EPA to "protect the renewable fuel standard."

U.S. Agriculture Secretary Tom Vilsack, at an event in Washington on Thursday, said he did not know if the biofuel mandate will be lowered for 2014 or when the proposal would be released. But the government is not "moving away" from its support of renewable fuels, he said.

Vilsack also said that USDA needed to be more active in pushing the owners of pumping stations for wider distribution of fuel with blends of ethanol that exceed the legal requirement.

Over the past decade, U.S. drivers have purchased more than 10 million flex-fuel vehicles, which can run on E85, a fuel containing 85-percent ethanol fuel. But finding gasoline stations that sell E85 fuel can be difficult, especially outside the Corn Belt, where much of the U.S. ethanol supply originates.

Biofuels Producers Blame Big Oil for EPA Plan to Cut Renewable-Fuel Standard
National Journal
November 15, 2013

Biofuels makers and corn producers are not happy about the Environmental Protection Agency scaling back on renewable-fuel levels for next year, and they're united about who's to blame: the oil industry.

"EPA's proposal fundamentally betrays this administration's commitment to clean renewable fuels and caves to big-oil demands," said Brian Jennings of the American Coalition for Ethanol. Added Renewable Fuels Association President Bob Dinneen: "Last time I checked, the oil companies were doing pretty good on their own."

Petroleum groups are part of a coalition that has pushed for a reduction in the federal mandate for renewable-fuel production, arguing gasoline blends with higher ethanol content could prove damaging to engines and drive up fuel costs. "For the first time, EPA has acknowledged that the blend wall is a dangerous reality and must be addressed to avoid serious impacts on America's fuel supply and harm to American consumers," said Jack Gerard, president of the American Petroleum Institute. "[But] while the EPA took a step in the right direction, more must be done to assure Americans have the choice of fuel they want and we're continuing or call for Congress to act now."

EPA announced Friday that it is proposing to lower the statutory requirement for biofuels production in 2014 from 18.15 billion gallons to a recommended target of 15.21 billion gallons. The agency also proposes a range of 2 billion to 2.51 billion gallons of advanced biofuels with a recommended target of 2.2 billion gallons. The range falls below the proposed target of 3.75 billion gallons under the Energy Security and Independence Act of 2007.

Reactions to the proposal were unanimously negative from the biofuels industry, while oil refiners, food marketers, and even recreational groups were delighted. Critics of the renewable-fuels standard, which was enacted with the goal of reducing U.S. dependence on foreign oil, say it has increased both fuel and food prices by shifting vast amounts of corn into ethanol production.

"Study after study has shown that the corn-ethanol mandate has artificially driven up commodity costs by billions of dollars annually, and with it, consumer prices," said Rob Green, executive director of the National Council of Chain Restaurants. "Today's proposal by the EPA reaffirms our steadfast belief that Congress needs to repeal the RFS mandate once and for all."

"While we are thankful and support the action EPA is taking today, its timid adjustment reconfirms the program is broken beyond repair," said National Chicken Council President Michael J. Brown.

"We appreciate the clear step that EPA has taken to not only acknowledge the unattainable mandates included in the renewable-fuel standard but to also leave room for consumers, manufacturers, and industries, including the recreational-boating community, that rely on the continued availability of low-ethanol fuel blends," said the National Marine Manufacturers Association's John McKnight.

Among the other negative reactions were these:

- "What we're seeing is the oil industry taking one last run at trying to convince administrators of the RFS to relieve the legal obligation on them to blend more biofuel based on clever arguments meant to disguise the fact that oil companies just don't want to blend more biofuel." —Brooke Coleman of the Advanced Ethanol Council.
- "[Friday's] proposal reveals that EPA might still deliver a devastating blow to this nascent sector and a victory for the oil industry by cutting the volume requirements for advanced biofuels." — Advanced Biofuels Association President Michael McAdams.
- "We cannot put oil's interests before the nation's needs. Blending more renewable fuel means more savings for consumers at the pump." — Novozymes North America President Adam Monroe.

Members of Congress also weighed in on the EPA proposal. Most significantly, House Energy and Commerce Chairman Fred Upton, R-Mich., and ranking member Henry Waxman, D-Calif., issued a joint statement generally supporting the EPA proposal—though in different tones—and indicating they are working together to address the growing controvsery about the renewable-fuel standard.

Other reactions fell along regional lines. Rep. Bruce Braley, D-Iowa, who is running for Senate in the middle of corn country, said "growth in Iowa's renewable-energy industry stands to suffer, putting job growth at risk" as a result of the policy shift.

Rep. Peter Welch, D-Vt., an outspoken RFS opponent, called the EPA announcement "welcome news" and a sign for Congress to change the policy.

EPA Announces 2014 RVO Numbers for RFS
Domestic Fuel
November 15, 2013

The U.S. Environmental Protection Agency (EPA) has released its proposal for the 2014 Renewable Volume Obligations (RVOs) as part of the Renewable Fuel Standard (RFS) for the amount of renewable fuels to be blended into gasoline and diesel. The EPA has proposed to set the cellulosic biofuel category at 17 million gallons, biomass-based diesel at 1.28 billion gallons, advanced biofuel at 2.20 billion gallons and renewable fuel at 15.21 billion. Development with input from the U.S. Department of Energy and U.S. Department of Agriculture, the proposal seeks public input.

According to the EPA, the proposal seeks to put the RFS program on a steady path forward – ensuring the continued long-term growth of the renewable fuel industry – while seeking input on different approaches to address the "E10 blend wall."

"Biofuels are a key part of the Obama Administration's "all of the above" energy strategy, helping to reduce our dependence on foreign oil, cut carbon pollution and create jobs," said EPA Administrator Gina McCarthy. "We have made great progress in recent years, and EPA continues to support the RFS goal of increasing biofuel production and use. We look forward to working with all stakeholders to develop a final rule that maintains the strength and promise of the RFS program."

EPA says the proposal discusses a variety of approaches for setting the 2014 standards, and includes a number of production and consumption ranges for key categories of biofuel covered by the RFS program. The proposal seeks comment on a range of total renewable fuel volumes for 2014 and proposes a level within that range of 15.21 billion gallons.

The EPA cites that the majority of gasoline sold in the U.S. is now "E10," which is fuel with up to 10 percent ethanol. Production of renewable fuels has been growing rapidly in recent years. At the same time, advances in vehicle fuel economy and other economic factors have pushed gasoline consumption far lower than what was expected when Congress passed the RFS in 2007. As a result, the country is now at the "E10 blend wall," the point at which the E10 fuel pool is saturated with ethanol. If gasoline demand continues to decline, as currently forecast, continuing growth in the use of ethanol will require greater use of higher ethanol blends such as E15 and E85.

The EPA says that the Obama Administration has taken a number of steps to allow or encourage the use of these higher ethanol blends. In 2010, EPA approved E15 for use in vehicles newer than model year 2001 and developed labeling rules to enable retailers to market E15. In addition, since 2011, USDA has made funding available through the Rural Energy for America Program to support deployment of "flex-fuel" pumps that can dispense a range of ethanol blends. The 2014 proposal seeks input on what additional actions could be taken by government and industry to help overcome current market challenges, and to minimize the need for adjustments in the statutory renewable fuel volume requirements in the future.

Looking forward, says the EPA, the proposal "clearly indicates" that growth in capacity for ethanol consumption would continuously be reflected in the standards set beyond 2014. EPA also says it looks forward to further engagement and additional information from stakeholders as the agency works in consultation with the Departments of Agriculture and Energy toward the development of a final rule.

In a separate action, EPA is also seeking comment on petitions for a waiver of the renewable fuel standards that would apply in 2014. EPA expects that a determination on the substance of the petitions will be issued at the same time that EPA issues a final rule establishing the 2014 RFS. Once the proposal is published in the Federal Register, it will be open to a 60-day public comment period.

EPA proposes smaller targets for biofuel use
Washington Post
November 15, 2013

The Environmental Protection Agency on Friday proposed lowering requirements for biofuel use in 2014, trimming targets for corn-based ethanol use for the first time.

The proposal would set ethanol use at 15.21 billion gallons, just under 10 percent of motor fuel and 16 percent lower than targets established by Congress in 2007.

The proposal angered farm groups, corn ethanol producers and supporters of biodiesel, but it mollified oil companies, which have long argued that if the content of ethanol in motor fuel exceeded 10 percent — known as the blend wall — it might damage cars, motorcycles and lawn mowers. Groups representing ethanol makers say that mixing significantly higher levels of ethanol with gasoline would not harm vehicles.

"Facts are facts," said Stephen H. Brown, vice president for governmental affairs at the oil refiner Tesoro. "They're so stubborn even this administration has to accept them."

"They're capitulating to the oil companies," Bob Dinneen, president of the Renewable Fuels Association, said of the administration. He said the EPA's proposed targets would hurt farmers and violate the spirit of the renewable fuels standard Congress adopted. "The RFS was about forcing marketplace change," he said, "and EPA is giving the oil companies a get of jail free card."

The EPA proposal, which includes ranges for each of the different kinds of renewable fuels, will be subject to comment before becoming final sometime in the first quarter of 2014.

The EPA quotas for biofuels are part of the renewable fuel standards established under energy legislation passed by Congress in 2007. Congress, eager to replace a portion of U.S. oil imports with homegrown fuel and to reduce the greenhouse gas emissions from transportation fuels, set a schedule that would phase in corn-based ethanol and later ethanol made from things other than food, such as switchgrass, corn cobs and stalks, waste or wood chips.

Congress, aware that the ethanol industry might evolve differently, also gave the EPA authority to alter the production targets if they proved unrealistic.

The American Petroleum Institute has been lobbying to repeal the renewable fuel standard altogether, and the new proposed ranges did not entirely placate the group. API President Jack Gerard said that "more must be done" and "ultimately Congress must protect consumers from this outdated and unworkable program."

But some industry officials said that if the EPA sticks to the blend wall, they will be satisfied. Oil refiners need to mix nearly that much ethanol into motor fuel anyway to meet octane requirements.

The new proposal is in line with numbers included in a leaked version last month. The midpoint of every range is the same as those earlier figures.

The EPA on Friday set an overall ceiling of 15.21 billion gallons for renewable fuels in 2014, about 16 percent lower than the 18.15 billion gallons Congress had originally set and lower than the 16.55 billion gallon requirement for this year.

The biggest portion of that is corn-based ethanol, which will provide about 13.8 billion gallons this year but next year would be limited to 13 billion gallons under the proposal. In 2007, Congress had set a 15 billion gallon limit on corn-based ethanol because of concern about using food for fuel. With a record corn crop expected this year, ethanol is expected to use about 38 percent of the crop, while using leftover material to return 16 percent of the total crop to the feed industry, Dinneen said.

“Farmers planted 93 million acres to get that corn crop in anticipation of a growing fuel market,” Dinneen said. “EPA just took 500 million bushels of demand away from the farmers. That’s going to have a significant impact on corn prices, and corn prices were already falling.”

Officials from the livestock and poultry industry, however, on a conference call organized by the API, said there wasn’t any more need to set ethanol volume requirements than there was for setting requirements for turkey output.

The EPA also lowered the target production of so-called cellulosic ethanol, which is made from things other than corn, such as switch grass, corn cobs and stalks, and wood chips. The middle of the cellulosic ethanol target range — about 17 million gallons — is high enough to make room for several companies that say they will be able to start up commercial-scale distilleries early next year, but the amount produced will be a drop in the bucket of American motor fuel consumption.

The 2007 legislation mandated that the use of cellulosic ethanol grow gradually until it hit 16 billion gallons in 2022.

The administration Friday also set a target range for all advanced biofuels of 2 billion to 2.5 billion gallons. Producers of biodiesel, which falls under that category, say they can provide more. On Thursday, 32 senators sent a letter to EPA administrator Gina McCarthy, asking the administration to set a volume requirement of at least 1.7 billion gallons for biodiesel alone.

“Biodiesel has exceeded RFS targets in each year and is clearly poised to do so again in 2013,” they wrote. “The industry has had impressive growth, going far beyond initial expectations just five years ago, and is supporting 62,160 jobs and nearly $17 billion in total economic impact.”

Related: Cellulosic ethanol is off to a delayed, boisterous start Why hasn’t cellulosic ethanol taken over the industry?

Proposal would lower amount of ethanol and other biofuels required by law for first time
Washington Post
November 15, 2013

WASHINGTON — The Obama administration on Friday proposed to reduce the amount of ethanol in the nation’s fuel supply for the first time, acknowledging that the biofuel law championed by both parties in 2007 is not working as well as expected.

While the proposal highlights the government’s struggle to ramp up production of homegrown biofuels that are cleaner-burning than gasoline, it is unlikely to mean much for consumers at the pump.

The change would reduce by almost 3 billion gallons the amounts of ethanol and other biofuels blended into gasoline in 2014 than the law requires.

The 2007 law tried to address global warming, reduce dependence on foreign oil and prop up the rural economy by requiring oil companies to blend billions of gallons of biofuels into their gasoline each year. But politicians who wrote the law didn't anticipate fuel economy to improve as much as it has in recent years, which reduced demand for gasoline.

Meanwhile, next-generation biofuels, made from agricultural waste such as wood chips and corncobs, have not taken off as quickly as Congress required and the administration expected.

President Barack Obama has championed biofuels since his days representing Illinois in the Senate, and his administration has resisted previous calls to lower biofuel volumes or repeal the law.

EPA officials said they were still committed to alternative fuels as part of a comprehensive energy strategy. If the EPA stuck to the volumes mandated by law, the amount of biofuel required would generate more ethanol than many engines can safely handle, officials said.

"We have made great progress in recent years, and EPA continues to support the RFS goal of increasing biofuel production and use," EPA Administrator Gina McCarthy, referring to the 2007 law called the Renewable Fuel Standard.

Biofuel supporters, however, said the proposal marked a departure for the Obama administration.

"This is the first time that the Obama administration has shown any sign of wavering," said Brooke Coleman, executive director of the Advanced Ethanol Council.

Bob Dinneen, the head of the Renewable Fuels Association, the Washington group that lobbies on behalf of the ethanol industry, said the announcement is ill-timed as the country is currently harvesting a record corn crop. He said the industry may sue if the proposal is not altered.

"This is exactly the wrong time to be reducing the required volumes of renewable fuels," Dinneen said.

The ethanol mandate created an unusual alliance between oil companies, which have seen ethanol cut into their share of the gasoline market, and environmental groups that oppose planting more corn for fuel. A recent AP investigation found that corn-based ethanol's effect on the environment is far worse than the government predicted or admits.

The oil industry lobbied hard for a reduction and is pleading with Congress to completely repeal the law.

Jack Gerard, president and CEO of the American Petroleum Institute, said the EPA's move is a step in the right direction, but "ultimately, Congress must protect consumers by repealing this outdated and unworkable program once and for all."

House Energy and Commerce Committee Chairman Fred Upton, R-Mich., said his panel is working on "comprehensive reforms" to the law.

"The status quo is no longer workable," Upton said.

Also in the proposal, the requirement for the amount of next-generation biofuels from nonfood plant sources, called cellulosic fuels, has been reduced for the fifth time in five years. The original law required 1.75 billion gallons of this fuel, which offers huge reductions in greenhouse gases compared with oil. For 2014, refiners would be required to blend 17 million gallons.

That's because companies have not yet been able to generate these fuels, which are far more complicated to produce than conventional biofuels, at high volumes. The target for next year does represent an increase from last year's 6 million gallons, though, and cellulosic fuels are the only category of biofuel to increase under the 2014 proposal. Two new cellulosic biofuel refineries are expected to begin producing fuel early next year.

EPA retreats on ethanol mandate
The Hill
November 15, 2013

The Environmental Protection Agency (EPA) is cutting the amount of ethanol and other biofuels that must be blended into the nation's fuel supply, a victory for oil companies that call the federal ethanol mandate unworkable.

On Friday, the EPA proposed draft 2014 blending volumes under the federal Renewable Fuel Standard that are lower than the 2013 requirements, and far less than called for in a 2007 law that expanded the mandate.

The EPA is proposing to require 15.21 billion gallons in 2014, down from 16.55 billion gallons in 2013, marking the first time the agency has lowered the target from the prior year.

A senior administration official said the Obama administration is firmly supportive of biofuels, but said "market, infrastructure and other constraints" warrant paring back the mandate.

"The realities of the fuel market must be addressed to properly implement the program," the official said.

U.S. gasoline consumption is lower than anticipated when the program was established.

Getting gasoline with ethanol levels higher than 10 percent — known as E-85 and E-15 to signify their ethanol levels — into the market requires new and retrofitted infrastructure.

Also, commercial development of next-wave biofuels like cellulosic ethanol has not proceeded as quickly as advocates had hoped.

"The proposed adjustments are intended to put the program on a steady path while supporting continued growth in renewable fuels over time," the official said.

"The amount of ethanol in the system is at the point where the blend wall is being reached," the official said, referring to the highest amount of ethanol that the market can currently accommodate.

The oil industry is pushing to dismantle the biofuels mandate completely, but cheered the EPA's proposed action.

"For the first time EPA has acknowledged that the blend wall is a dangerous reality. While the agency took a step in right direction more must be done to ensure more Americans have a choice of fuels they want," American Petroleum Institute President Jack Gerard said on a call with reporters.

The proposal drew a rebuke from the biofuels industry.

"By re-writing the statute and re-defining the conditions upon which a waiver from the RFS can be granted, EPA is proposing to place the nation's renewable energy policy in the hands of the oil companies," said Bob Dinneen, president of the Renewable Fuels Association, a major ethanol industry trade group.

"That would be the death of innovation and evolution in our motor fuel markets, thus increasing consumer costs at the pump and the environmental cost of energy production," he said in a statement.

Anne Steckel, the National Biodiesel Board's vice president of federal affairs, called the proposal "surprising and disappointing."

"This proposal, if it becomes final, would create a shrinking market, eliminate thousands of jobs and likely cause biodiesel plants to close across the country," she said.

Administration officials who spoke with reporters on a call Friday emphasized that they will take comment from stakeholders on a range of volumes, leaving open the possibility that the numbers could be altered in a final rule next year.

The agency will take comment on a total range between 15 billion and 15.52 billion gallons.

For "advanced" biofuels, the EPA is proposing to require 2.2 billion gallons but taking comment on a range between 2 billion and 2.51 billion, the official said. The 2013 standard for these fuels is 2.75 billion gallons.

The proposal also reduces the amount of traditional corn ethanol that refiners must blend into gasoline, which is set at 13.8 billion gallons in 2013 but would fall to back to 13 billion under the agency plan.

The administration official said the Obama administration remains supportive of biofuels.

"Biofuels are a key part of this administration's all-of-the-above energy strategy," the official said, calling the renewable fuels a way to displace oil imports, help address climate change and create jobs.

But Friday's proposal is nonetheless a victory for ethanol's opponents.

"This administration has accepted the central argument of the refining industry that the blend wall is real and that the statutory volumes no longer have any relevance based on market realities," said Stephen Brown, vice president for federal government affairs with the oil refiner Tesoro Corp.

Critics of the ethanol mandate, while welcoming EPA's decision to back off somewhat, reiterated calls for Congress to kill the program outright.

"While we are thankful and support the action EPA is taking today, its timid adjustment reconfirms the program is broken beyond repair. This is a good first step, but ultimately, Congress must act," said Michael J. Brown, president of the National Chicken Council.

Livestock and poultry groups, restaurants and other interests oppose the biofuels mandate, arguing that it raises feed and food costs. The ethanol industry disputes those claims.

Renewable Fuel Quote Cut in EPA Change Sought by Refiners

Bloomberg
November 15, 2013

The Obama administration proposed a cut in the amount of renewable fuels that refiners must blend with gasoline next year, bowing to oil industry complaints that the targets contained in 2007 legislation were too high.

In a draft rule released today, the U.S. Environmental Protection Agency said it would require between 15 billion to 15.52 billion gallons of renewable fuels such as corn ethanol and biodiesel in 2014. That compares with 18.15 billion gallons set in the legislation, making it the first time the legal mandate would be cut.

This "acknowledges a drastic change in the U.S. energy outlook since the renewable fuels mandate was put in place," Jason Bordoff, the head of the Center on Global Energy Policy at Columbia University and former White House official under President Barack Obama, said in a statement. It "marks a notable shift in the administration's biofuel policy."

The proposal, which was applauded by refiners and panned by corn growers and ethanol makers, would lower costs for refiners such as Valero Energy Corp. that must blend the fuel into gasoline.

Valero rose 16 cents to $43 at 4 p.m. in New York Stock Exchange trading, while Archer-Daniels-Midland Co, which processes corn and other agricultural products, dropped $1.44 to $40.56, its biggest decline since Aug. 26. Prices of soybeans, used to make biodiesel, fell the most in six weeks, and corn futures dropped 1.4 percent to $4.305 a bushel in Chicago.

Refiners, fast-food restaurants, motorboat makers and chicken farmers have all pushed the EPA to scale back the ethanol mandate, saying it risks ruining engines by forcing more ethanol to be blended into gasoline and is acting to push up demand for corn. Gasoline demand is falling, and so rising requirements for renewable fuels are ramping up the percentage of those fuels in the total mix, putting the amount of ethanol required near the 10 percent refiners label the "blend wall" that can damage engines.

"While the agency took a step in the right direction, more must be done to ensure Americans have the choice of ethanol-free gasoline," said Jack Gerard, the chief executive of the American Petroleum Institute, the Washington-based group that represents companies such as Exxon Mobil

Corp. “They are getting close to making sure they don’t breach us through the blend wall.”

Within the range of values it provided, the EPA listed specific volume requirements it was proposing: 15.21 billion gallons for renewable fuel generally and 2.2 billion for advanced biofuels. A final rule is due in the first quarter of 2014, after refiners and ethanol makers weigh in.

The agency also proposed a range for the mandate for biodiesel and cellulosic products, such as those made from corn stalks or woody waste, of 2 billion gallons to 2.5 billion gallons. That’s below the 3.75 billion gallon target spelled out in the legislation, and is in line with the 2.21 billion gallons from an August draft that was leaked.

“The proposed reduction from EPA is troubling, as it not only cuts grain ethanol use below the levels set by Congress, it cuts them to a level below the 13.8 billion that was met in 2013,” said Jeff Lautt, the chief executive of ethanol maker Poet LLC. “Under this rule, American drivers and American farmers lose and Big Oil wins.”

EPA officials say they are listening to those concerns and have pledged to preserve a market for what are dubbed “next generation fuels.” In presenting a range, the agency would allow outside groups to comment over the next two months prior to a final EPA decision.

Advanced biofuel, such as biodiesel and Brazilian ethanol, is part of a larger program for renewable fuels that is anchored by corn-based ethanol. Corn growers and the ethanol industry are pushing for an increase in the 13 billion-gallon quota called for in the leaked August plan, which is below the 14.4 billion gallons in the law. The EPA has the ability to adjust the quotas in response to market pressures.

EPA proposes trim to renewable fuels blend; refiners mixed
MarketWatch
November 15, 2013

The Environmental Protection Agency on Friday proposed trimming the amount of biofuel refiners must blend into fuels next year, acknowledging that the standards are difficult to meet.

The proposal calls for refiners to blend 15.21 billion gallons of renewable fuel, mostly corn-based ethanol, into U.S. gasoline and other fuels next year — about 16% less than what had been determined for this year, and about 8% less than the 16.55 billion gallons to be blended this year.

The proposal is subject to a comment period before becoming final early next year.

The proposed standards would cut down on compliance costs for refiners. Refiner stocks were mixed on Friday, as were stocks of large ethanol producers.

Shares of Tesoro Corp. and Phillips 66 were down 1.4% and 0.8%, respectively. Shares of Valero Energy Corp., a refiner but also a major ethanol producer, rose 0.5%. Energy stocks on the S&P 500 Index rose 0.6%.

Shares of ethanol producer Pacific Ethanol Inc were up 13%, while shares of Archer-Daniels-Midland Co. declined 2.9%.

The EPA sets a minimum volume of renewable fuels that must be blended into U.S. fuels such as gasoline and diesel as part of a federal program first enacted in 2005 and updated two years later to curb greenhouse-gas emissions.

The EPA reviews the standard each year, and the industry had warned that as enacted would lead to hitting a "blend wall."

Most gasoline sold in the U.S. is up to 10% ethanol. Ethanol production has risen while gasoline demand has declined far more than Congress expected in 2007, when it passed the current standard, the EPA said.

"As a result, we are now at the 'E10 blend wall', the point at which the E10 fuel pool is saturated with ethanol," the EPA said. "If gasoline demand continues to decline, as currently forecast, continuing growth in the use of ethanol will require greater use of higher ethanol blends such as E15 and E85."

Organizations such as the American Petroleum Institute and travel and leisure group AAA had warned gasoline with more than 10% ethanol would be harmful to some cars and motors of small appliances and other vehicles. It would also void vehicle warranties in some cases.

In a statement Friday, the Renewable Fuels Association said it was disappointed at the proposal, which showed the government "wavering" on the renewable fuel standard for the first time, but it was "confident that the final number will be the right one for the industry in 2014."

AAA said the proposal would prevent a "surge in gas prices or the premature expansion of E15 gasoline sales."

The EPA has approved the use of E15 gasoline for use in newer car and truck models in some areas.

The API lauded the EPA as taking "a step in the right direction," but "more must be done to ensure Americans have the choice of ethanol-free gasoline for boats and small engines, and to bring their mandates closer to reality on cellulosic biofuels, which do not exist in commercial quantities."

EPA Shrinks Ethanol Mandate for First Time
Wall Street Journal
November 15, 2013

WASHINGTON—The Environmental Protection Agency on Friday proposed for the first time to ease an annual requirement for ethanol in gasoline, acknowledging that mandated levels specified in a 2007 law are difficult, if not impossible, to meet.

The EPA is asking refiners in 2014 to blend 15.2 billion gallons of renewable fuel—most of it ethanol—into U.S. gasoline supplies. That is about 16% less than what Congress specified in a 2007 renewable fuels law. The law gives EPA the ability to lower the requirement.

The move represents one of the biggest setbacks to date for ethanol, long seen as a promising way for the U.S. to reduce dependence on imported oil. Most U.S. ethanol comes from corn.

The recent surge in domestic oil and gas production, coupled with a decline in the demand for transportation fuel, has lessened the appeal of ethanol. At the same time, food producers said the ethanol mandate makes animal feed more expensive by raising corn demand.

The EPA's proposal, which will be open to 60 days of public comment before being made final in the spring of next year, trims volume requirements for all kinds of biofuels. The EPA proposed that between two billion and 2.5 billion gallons of advanced biofuels be blended into the nation's fuel supply. That's significantly less than the 3.75 billion gallons mandated by the 2007 law for advanced biofuels, a category that includes fuels made from things other than corn.

Those volumes would leave between 12.7 billion and 13.2 billion gallons of corn ethanol in the nation's fuel mix. The EPA's proposal would cut ethanol volumes not just lower than what was expected for 2014, but lower than what was mandated in the last two years.

An administration official said the EPA remained committed to promoting biofuels and called the new levels "a sustainable path forward that allows for steady growth."

The EPA says it is trying to fix a problem known as the "blend wall," which occurs when the annual requirement mandated by Congress exceeds the amount of ethanol that can be mixed into conventional blends of gasoline.

Oil companies and refiners have been warning of the blend wall for several years. If the EPA had stuck to Congress's original target, refiners said they would have hit the blend wall in 2014 for the first time.

Prominent critics of the biofuels program cheered the EPA proposal. Jack Gerard, chief executive of the American Petroleum Institute, a trade group, called the reduced levels "a step in the right direction" and an "acknowledgement by EPA" that the blend wall is a "dangerous reality." Mr. Gerard said that Congress should ultimately strike down the "outdated and unworkable" biofuels mandates.

Ethanol makers and politicians in corn-producing states such as Iowa lobbied hard against easing the ethanol requirement. They said the law was meant to provide an incentive for the use of renewable fuels, and they criticized the oil industry for its reluctance to promote gasoline blends with more ethanol. Oil companies and refiners say that gasoline blended with 15% ethanol, known as E15, could damage cars and that consumers don't want it.

The EPA approved E15 in 2010, but only a few dozen retailers offer it. Standard gasoline generally contains up to 10% ethanol, and also is known as E10.

EPA proposes first-ever rollback of renewable fuel targets
E&E
November 15, 2013

U.S. EPA today proposed scaling back renewable fuel targets for the first time since Congress passed the national biofuel mandate in 2007.

The agency proposal would require that refiners blend 15.21 billion gallons of renewable fuels into petroleum-based gasoline and diesel next year. Of that, 13.01 billion gallons is to come from conventional ethanol and 2.2 billion gallons from advanced biofuels that do not use corn starch as an input.

As part of the advanced target, EPA is proposing that at least 1.28 billion gallons be biodiesel -- made from soybean oil, animal fats and used cooking grease. Seventeen million gallons must be cellulosic biofuel made from other plant-based materials such as crop residue and municipal solid waste.

EPA is also seeking comment on ranges of targets. For overall renewable fuels, the agency has proposed a range from 15 billion to 15.52 billion gallons. For advanced biofuels, the range stretches between 2 billion and 2.51 billion gallons, and cellulosic biofuel is between 8 million and 30 million gallons.

"Biofuels are a key part of the Obama Administration's 'all of the above' energy strategy, helping to reduce our dependence on foreign oil, cut carbon pollution and create jobs," EPA Administrator Gina McCarthy said in a statement. "We have made great progress in recent years, and EPA continues to support the RFS goal of increasing biofuel production and use. We look forward to working with all stakeholders to develop a final rule that maintains the strength and promise of the RFS program."

But the rule drew immediate criticism from both biofuel producers and members of a strange-bedfellow coalition of groups seeking to either reform or repeal the renewable fuel standard.

"The proposed rule released today turns the logic of the RFS on its head and could significantly chill investments in advanced biofuels projects," said Brent Erickson, executive vice president of the Biotechnology Industry Organization's industrial and environmental section, a group that advocates on behalf of advanced biofuel producers.

EPA today also said it is taking comment on a petition from oil industry groups to waive the volume requirements down even further.

The 2007 Energy Independence and Security Act, which created the renewable fuel standard, calls for 18.15 billion gallons of renewable fuels to be blended into petroleum-based gasoline and diesel next year. Of that, 14.4 billion gallons was set to be conventional ethanol and 3.75 billion gallons advanced biofuels.

This year's targets are 13.8 billion gallons for corn ethanol and 2.75 billion gallons for advanced biofuels, for an overall renewable fuels target of 16.55 billion gallons.

With the proposal, EPA officially acknowledged the existence of the "blend wall" -- the point at which petroleum manufacturers say they're required to blend more ethanol into fuel than is feasible. The agency said it would use its authority under the statute's waiver provisions to roll back the targets.

Under the renewable fuel standard, the agency is given leeway to reduce the cellulosic biofuel target based on assumptions of actual market supply. EPA has used its authority to lower the target each year since the RFS was put in place because of the slower-than-expected ramp-up of the cellulosic industry.

EPA has never, however, used its authority to lower the overall advanced biofuel standard and has instead relied on excess biodiesel production and imported sugar cane ethanol from Brazil to fill the gap left by the lower cellulosic production.

Nor has the agency lowered its overall renewable fuel target, which sets the conventional ethanol mandate for the year. In its rule today, the agency cites "inadequate domestic supply," one of two criteria set out by the 2007 statute, as justification for lowering the target.

"This proposal seeks to put the RFS program on a steady path forward -- ensuring continued growth of renewable fuels while recognizing the practical limits on ethanol blending," EPA said.

The targets proposed today are similar to those EPA included in an initial draft proposal that was circulated last month among stakeholders and was first reported by Greenwire.

Biofuels producers and trade organizations launched a lobbying blitz in response to the draft, warning that the potential rollback would stymie investment in next-generation fuels and could lead to the shuttering of dozens of conventional ethanol plants. According to official meeting records, biofuel and ethanol producers met with EPA and the Office of Management and Budget eight times since the draft was leaked; oil industry groups and companies met with the agencies only three times.

EPA disappoints RFS opponents and supporters

The new proposal is unlikely to make either supporters of the RFS or its opponents happy.

Biofuel producers say that the renewable fuel standard was meant to drive investment in new fuels and that EPA's action amounts to bowing to oil companies' demands.

The corn ethanol industry, which says there will be enough production and carryover credits to meet the full 14.4-billion-gallon target next year, has questioned the agency's legal authority to lower the target based on the domestic supply criterion.

"I think there's a number of us that can demonstrate those ranges were way too low and don't line up to the intent of the RFS," said Tom Buis, CEO of the ethanol trade group Growth Energy.

Biodiesel producers have also criticized the agency for proposing a biodiesel target at the same level as this year's target rather than one that reflects the growth in the industry; the industry is expected to reach a record 1.7 billion gallons of production this year. Producers will likely be forced to scale back production without a robust number and with the high chance of the biodiesel production tax credit expiring at the end of the year, the National Biodiesel Board says.

"The growth in domestic biodiesel production dovetails exactly with President Obama's statement in July of this year that 'biofuels are already reducing our dependence on oil, cutting pollution and creating jobs around the country,'" said Anne Steckel, NBB's vice president of federal affairs. "This is why EPA's action today is so surprising and disappointing."

While oil industry groups have pushed for a reduction in the volume targets, they, too, say they are disappointed with today's proposal. They are pushing the agency to lower the ethanol portion to no more than 9.7 percent of the nation's petroleum-based fuel supply, or 12.9 billion gallons.

"For the first time, EPA has acknowledged that the blend wall is a dangerous reality and must be addressed to avoid serious impact on America's fuel supply and harm to American consumers," said Jack Gerard, CEO of the American Petroleum Institute. "While the agency took a step in the right direction, more must be done."

API and American Fuel & Petrochemical Manufacturers have already threatened to sue EPA if it does not finalize the rule by the statutory deadline of Nov. 30.

And livestock producers, which say the increased ethanol production driven by the standard has raised their operating costs, also expressed disappointment and vowed to continue seeking repeal of the standard in Congress.

The proposal is a "good and welcome first step," said Mike Brown, president of the National Chicken Council, "but ultimately Congress must still act. Congressional action to repeal the RFS remains the most viable pathway to allowing all users of corn to have equal market access."

Prairies Vanish in the U.S. Push for Green Energy
Sci-Tech Today
November 15, 2013

Robert Malsam nearly went broke in the 1980s when corn was cheap. So now that prices are high and he can finally make a profit, he's not about to apologize for ripping up prairieland to plant corn.

Across the Dakotas and Nebraska, more than 1 million acres of the Great Plains are giving way to cornfields as farmers transform the wild expanse that once served as the backdrop for

American pioneers.

This expansion of the Corn Belt is fueled in part by America's green energy policy, which requires oil companies to blend billions of gallons of corn ethanol into their gasoline. In 2010, fuel became the No. 1 use for corn in America, a title it held in 2011 and 2012 and narrowly lost this year. That helps keep prices high.

"It's not hard to do the math there as to what's profitable to have," Malsam said. "I think an ethanol plant is a farmer's friend."

What the green-energy program has made profitable, however, is far from green. A policy intended to reduce global warming is encouraging a farming practice that actually could worsen it.

That's because plowing into untouched grassland releases carbon dioxide that has been naturally locked in the soil. It also increases erosion and requires farmers to use fertilizers and other industrial chemicals. In turn, that destroys native plants and wipes out wildlife habitats.

It appeared so damaging that scientists warned that America's corn-for-ethanol policy would fail as an anti-global warming strategy if too many farmers plowed over virgin land.

The Obama administration argued that would not happen. But the administration didn't set up a way to monitor whether it actually happened.

It did.

More than 1.2 million acres of grassland have been lost since the federal government required that gasoline be blended with increasing amounts of ethanol, an Associated Press analysis of satellite data found. Plots that were wild grass or pastureland seven years ago are now corn and soybean fields.

That's in addition to the 5 million acres of farmland that had been aside for conservation -- more than Yellowstone, Everglades and Yosemite National Parks combined -- that have vanished since Obama took office.

In South Dakota, more than 370,000 acres of grassland have been uprooted and farmed from since 2006. In Edmunds County, a rural community about two hours north of the capital, Pierre, at least 42,000 acres of grassland have become cropland -- one of the largest turnovers in the region.

Malsam runs a 13-square-mile family farm there. He grows corn, soybeans and wheat, then rents out his grassland for grazing. Each year, the family converts another 160 acres from grass to cropland.

Chemicals kill the grass. Machines remove the rocks. Then tractors plow it three times to break up the sod and prepare it for planting.

Scattered among fields of 7-foot tall corn and thigh-high soybeans, some stretches of grassland still exist. Cattle munch on some grass. And "prairie potholes" -- natural ponds ranging from small pools to larger lakes -- support a smattering of ducks, geese, pelicans and herons.

Yet within a mile of Malsam's farm, federal satellite data show, more than 300 acres of grassland have been converted to soybeans and corn since 2006.

Nebraska has lost at least 830,000 acres of grassland, a total larger than New York City, Los Angeles and Dallas combined.

"It's great to see farmers making money. It hasn't always been that way," said Craig Cox of the Environmental Working Group. He advocates for clean energy but opposes the ethanol mandate. "If we're going to push the land this hard, we really need to intensify conservation in lockstep with production, and that's just not happening," he said.

Jeff Lautt, CEO of Poet, which operates ethanol refineries across the country, including in South Dakota, said it's up to farmers how to use their land.

"The last I checked, it is still an open market. And farmers that own land are free to farm their land to the extent they think they can make money on it or whatever purpose they need," he said.

Yet Chris Wright, a professor at South Dakota State University who has studied land conversion, said: "The conversation about land preservation should start now before it becomes a serious problem." Wright reviewed the AP's methodology for determining land conversion.

The AP's analysis used government satellite data to count how much grassland existed in 2006 in each county, then compare each plot of land to corresponding satellite data from 2012.

The data from the U.S. Geological Survey and the Department of Agriculture identify corn and soybean fields. That allowed the AP to see which plots of grassland became cropland.

To reach its conservative estimate of 1.2 million acres lost, the AP excluded grassland that had been set aside under the government's Conservation Reserve Program, in which old farmland is allowed to return to a near-natural state. The AP used half-acre sections of earth and excluded tiny tracts that became corn, which experts said were most likely outliers.

Corn prices more than doubled in the years after Congress passed the ethanol mandate in 2007. Now, Malsam said, farmers can make about $500 an acre planting corn.

His farm has just become profitable in the past five years, allowing him and his wife, Theresa, to build a new house on the farmstead.

Four miles south, signs at each end of the town of Roscoe announce a population of only 324. But the town, which relies in part on incomes like Malsam's, supports a school, a restaurant, a bank, a grocery store and a large farm machinery store.

The manager of the equipment dealership, Kaleb Rodgers, said the booming farm economy has helped the town and the dealership prosper. The business with 28 employees last year sold a dozen combines at about $300,000 apiece, plus more than 60 tractors worth between $100,000 and $300,000, he said.

"If we didn't have any farmers we wouldn't have a community here. We wouldn't have a business. I wouldn't be sitting here. I wouldn't be able to feed my family," Rodgers said. "I think ethanol is a very good thing."

Jim Faulstich, president of the South Dakota Grasslands Coalition, said the nation's ethanol and crop insurance policies have encouraged the transformation of the land.

Faulstich, who farms and ranches in central South Dakota near Highmore, said much of the land being converted is not suited to crop production, and South Dakota's strong winds and rains will erode the topsoil.

"I guess a good motto would be to farm the best and leave the rest," he said.

Fuels America members talk about EPA proposal, vow to fight back
Biomass Magazine
November 15, 2013

Fuels America held a media call on Nov. 15, reacting to a U.S. EPA proposal that would lower the required volumes of both conventional ethanol and advanced biofuels in 2014. Participating were representatives from the Renewable Fuels Association, the Biotechnology Industry Organization, the National Farmers Union, Poet LLC and Growth Energy.

The EPA's is seeking comment on its proposal for the 2014 renewable volume obligations (RVO) for the renewable fuel standard (RFS). First, the proposal needs to be published in the Federal Register, which kicks off a 60-day comment period.

Bob Dinneen, RFA's president, spoke first, pointing to the expected record corn crop of 14 billion bushels and saying it is the wrong time to reduce the renewable fuels required volumes. "The minute you introduce blending capacity or blend wall considerations, into a decision as to whether or not to waive the program is the minute you take the nation's renewable fuel policy away from the statute and you put it in the hands of the oil companies, who do not want to invest in the infrastructure to allow more than 10 percent blends to be used," he said. "It makes no sense."

The RFA also pointed out in a press release that the EPA does not have the statutory authority to lower the RVO by more than the total reduction in advanced and cellulosic gallons and said it cannot stand. The "blend wall" doesn't qualify as grounds for a general waiver of RFS volumes. Severe economic harm or inadequate domestic supply of renewable fuels must be proven for a general waiver and those conditions do not apply.

Next up was Brent Erickson, executive vice president of BIO's industrial and environmental section. BIO is baffled by what it considers a radical change in posture from the EPA, he said, pointing out that the RFS was formulated by Congress to push past the blend wall. "We think this rule will create an intolerable amount of uncertainty and undercut investments for the advanced biofuels industry," he said, adding that investors were already nervous before this development.

He sees three possible fallouts, should this proposal be finalized. First, existing investments in advanced biofuels would become stranded, putting existing jobs at risk. Development of advanced biofuel feedstocks would slow or stop completely. Finally, new technology, which is just now reaching commercial readiness, could be derailed. He also pointed out that many companies have already invested more than $5 billion into advanced biofuels and created more than 7,600 permanent jobs.

Roger Johnson, president of the National Farmers Union, said if the proposal becomes final it would have direct negative impacts on farmers and that it sends a message from the EPA that rural development will stop and actually go backwards. Corn prices are down, leaving a breakeven point for farmers that is at about $4 or $4.50 a bushel. With one more good corn crop, farmers will be struggling to make ends meet. On top of that, this proposal sucks half a billion bushels of demand from the corn market. “This is a proposal that we are deeply, deeply disappointed about,” he said.

Jeff Lautt, CEO of Poet LLC, said the company is very troubled by the proposal. “We are shocked by the numbers that are in the proposal that says, not only are we going to slow down the vision and the plan of continuing to create an alter to gasoline and cop for American consumers, but we are going to maybe retreat from and turn back the numbers,” he said. “It is a grave concern to us, a company who has invested millions of dollars, not only in building corn-based ethanol business, but is at the heels of commercializing cellulosic ethanol as well. It seems like it would be handing a complete win to the oil industry.”

He also pointed out that many people incorrectly think it’s an either or situation with corn-based ethanol and cellulosic ethanol. “The fact is, all of the technology that we have developed, all the infrastructure, the investment that we have made, has been made on the foundation of our corn ethanol business,” he said.

Tom Buis, CEO of Growth Energy, also said he was disappointed in the proposal. He went on to stress that it hasn’t been finalized and that Growth Energy would be submitting comments in an effort to convince the EPA to make changes before the final rule comes out, something other speakers said as well “I would remind everyone it is a proposal, and I know all of us on the call today and everyone in the sector will be working hard to show that … their rationale was incorrect,” he said. “We should be moving forward, not backwards.”

He also pointed out only five years have passed for a 15-year policy that is working to save Americans money at the gas pump. “Now is not the time to turn back on the progress we have made and ask Americans to pad big oil's already record profits,” he said in a press release. “In its current form, this rule would freeze innovation or investment in next generation biofuels; reduce production of conventional biofuels; harm our environment and jeopardize savings to consumers.”

Oil companies win RFS round one
Agriculture.com
November 15, 2013

The EPA announced its proposal for the 2014 Renewable Fuel Standard Friday and, as expected, it would leave less room for corn-based ethanol in gas tanks next year.

The proposed rule, which will be followed by 60 days of public comments, mandates 15.21 billion gallons of renewable fuel blending next year, but when you subtract the mandate for advanced biofuels (which includes cellulosic and biodiesel) the mandate for conventional ethanol made mostly from corn is about 13 billion gallons.

That's a dramatic reduction from this year's 13.8 billion gallon corn ethanol RFS.

"This would take 500 million bushels of demand away from America's farmers," said Bob Dinneen, president of the Renewable Fuels Association.

In its press release announcing the proposal, the agency said it "seeks to put the Renewable Fuel Standard (RFS) program on a steady path forward -- ensuring the continue long-term growth of the renewable fuel industry --while seeking input on different approaches to address the 'E10 blend wall.' "

But the industry isn't buying it.

Brent Erickson, executive vice president of BIO, which represents the advance biofuels industry, said the rule, if it stands, "would undercut investment for the advanced biofuels industry," just as companies like Abengoa, DuPont and POET are building plants that will begin commercializing cellulosic ethanol.

The EPA is proposing a waiver to the RFS, based in part on the blend wall.

But Dinneen said Friday that is has no legal authority to do so. In fact, when the 2007 Energy Independence and Security Act was passed, a House-Senate conference committee rejected lack of oil company infrastructure as justification for any waivers. EPA has to show economic harm, which Dinneen said it can't when ethanol is 50-60 cents a gallon cheaper than gasoline. Or, it has to show inadequate supplies.

"We produced more this year than they are requiring next year," he said.

National Farmers Union president Roger Johnson said that the energy law's intent was to increase the share of biofuels in the nation's liquid fuels by more than 10%, up to about 25-30% by 2022.

The EPA proposal, Johnson said, "lets the oil companies know that if they simply quit investing in infrastructure to allow this into the marketplace, they win."

Reaction in the agricultural community was swift and negative.

American Farm Bureau president Bob Stallman said:

“The intent of the Renewable Fuels Standard revised in 2007 (RFS2) was to get more renewable fuels into our nation’s pipeline and move beyond the E10 fuel blend. Today’s announcement from EPA moves us in the opposite direction. This decision has the potential to pull the plug on new technologies and investments that are currently in place and needed to produce advanced biofuels," he said.

“The ethanol industry, from farmers to investors and everyone in between, needs stability and certainty.”

EPA proposes to reduce 2014 renewable fuels target
Cattle Network
November 15, 2013

A proposal by the Environmental Protection Agency to reduce the 2014 renewable fuels standard drew mixed reaction Friday afternoon from industry stakeholders.

According to EPA, the proposal will put the Renewable Fuels Standard program on a "steady path forward."

The proposal, which will be open for a 60-day comment period once it is published in the *Federal Register,* would lower the 2014 renewable biofuel mandate from 18.15 billion gallons to a range of 15 billion to 15.52 billion gallons added to the U.S. fuel supply. EPA's recommended target is 15.21 billion gallons within the proposed range.

EPA also proposed changes for cellulosic biofuels, with a range between 8 million and 30 million and a recommended target of 17 million gallons, and advanced biofuels, with a range of 2.0 billion to 2.51 billion gallons and a recommended target of 2.20 billion gallons.

On a stakeholder call hosted by the American Petroleum Institute that included representatives from the livestock industry, the American Meat Institute's Mark Dopp welcomed the proposal but urged congressional action. AMI supports legislation pending in the U.S. House of Representatives to eliminate the corn-based ethanol mandate, reduce cellulosic and advanced biofuels requirements and put a 10 percent cap on the amount of ethanol that can be blended into gasoline.

"EPA's decision to reduce the ethanol mandate is long overdue," said Dopp. "While this is a positive step, the fact remains the RFS is a flawed policy that requires Congressional action. Even with a record corn crop expected this year, the damaging ripple effect of this defective policy has moved through the meat and poultry complex for the past several years. The time for Congressional action is now."

EPA said while renewable fuel production has ramped up in recent years, gasoline consumption in the United States has dropped. As a result, EPA's release said we are now at the "E10 blend wall," the point at which the E10 fuel pool is saturated with ethanol.

The National Farmers Union's Roger Johnson disagrees and says the blend wall argument is a fictitious product from the oil industry.

"We are deeply disappointed in EPA's apparent willingness to reduce total renewable fuel requirements based on the oil industry's fictitious 'blend wall' argument. Big oil has determined that biofuels are taking their market share, so they have prevented increased amounts of biofuel to be sold at gas stations," Johnson said.

Johnson said the lower mandate will also further reduce corn prices, eliminate jobs and hurt rural economies. The American Farm Bureau Federation also expressed disappointment with the proposed rule.

EPA hopes to finalize the rule by spring 2014.

EPA Proposes Reducing Biofuel Mandate
ABC News
November 15, 2013

The Obama administration on Friday proposed to reduce the amount of ethanol in the nation's fuel supply for the first time, acknowledging that the biofuel law championed by both parties in 2007 is not working as well as expected.

While the proposal highlights the government's struggle to ramp up production of homegrown biofuels that are cleaner-burning than gasoline, it is unlikely to mean much for consumers at the pump.

The change would reduce by almost 3 billion gallons the amounts of ethanol and other biofuels blended into gasoline in 2014 than the law requires.

The 2007 law tried to address global warming, reduce dependence on foreign oil and prop up the rural economy by requiring oil companies to blend billions of gallons of biofuels into their gasoline each year. But politicians who wrote the law didn't anticipate fuel economy to improve as much as it has in recent years, which reduced demand for gasoline.

Meanwhile, next-generation biofuels, made from agricultural waste such as wood chips and corncobs, have not taken off as quickly as Congress required and the administration expected.

President Barack Obama has championed biofuels since his days representing Illinois in the Senate, and his administration has resisted previous calls to lower biofuel volumes or repeal the law.

EPA officials said they were still committed to alternative fuels as part of a comprehensive energy strategy. If the EPA stuck to the volumes mandated by law, the amount of biofuel required would generate more ethanol than many engines can safely handle, officials said.

"We have made great progress in recent years, and EPA continues to support the RFS goal of increasing biofuel production and use," EPA Administrator Gina McCarthy, referring to the 2007 law called the Renewable Fuel Standard.

Biofuel supporters, however, said the proposal marked a departure for the Obama administration.

"This is the first time that the Obama administration has shown any sign of wavering," said Brooke Coleman, executive director of the Advanced Ethanol Council.

Bob Dinneen, the head of the Renewable Fuels Association, the Washington group that lobbies on behalf of the ethanol industry, said the announcement is ill-timed as the country is currently harvesting a record corn crop. He said the industry may sue if the proposal is not altered.

"This is exactly the wrong time to be reducing the required volumes of renewable fuels," Dinneen said.

The ethanol mandate created an unusual alliance between oil companies, which have seen ethanol cut into their share of the gasoline market, and environmental groups that oppose planting more corn for fuel. A recent AP investigation found that corn-based ethanol's effect on the environment is far worse than the government predicted or admits.

The oil industry lobbied hard for a reduction and is pleading with Congress to completely repeal the law.

Jack Gerard, president and CEO of the American Petroleum Institute, said the EPA's move is a step in the right direction, but "ultimately, Congress must protect consumers by repealing this outdated and unworkable program once and for all."

House Energy and Commerce Committee Chairman Fred Upton, R-Mich., said his panel is working on "comprehensive reforms" to the law.

"The status quo is no longer workable," Upton said.

Also in the proposal, the requirement for the amount of next-generation biofuels from nonfood plant sources, called cellulosic fuels, has been reduced for the fifth time in five years. The original law required 1.75 billion gallons of this fuel, which offers huge reductions in greenhouse gases compared with oil. For 2014, refiners would be required to blend 17 million gallons.

That's because companies have not yet been able to generate these fuels, which are far more complicated to produce than conventional biofuels, at high volumes. The target for next year does represent an increase from last year's 6 million gallons, though, and cellulosic fuels are the only category of biofuel to increase under the 2014 proposal. Two new cellulosic biofuel refineries are expected to begin producing fuel early next year.

Obama administration announces lower quotas for ethanol in gasoline

The Guardian
November 15, 2013

Barack Obama on Friday backed away from the notion of corn ethanol representing a cure for climate change, as he proposed to cut the amount of ethanol that is blended into the US gasoline supply.

The Environmental Protection Agency said it would for the first time seek to lower quotas for ethanol that have diverted close to 40% of America's corn crop from the global food chain and into the country's gas tanks. The EPA said it would seek to reduce the quotas under the Renewable Fuel Standard, from 16.55bn gallons this year to 15.21bn gallons in 2014. The proposal would peg the ethanol mandate to around 10% of the country's fuel supply.

The quota reduction will apply to all biofuels, including advanced biofuels which do not rely on food stocks but are made from plants like switch grass or corn stalks. It will also affect imports of Brazilian ethanol, which is made from sugarcane.

Officials said the president remains committed to ethanol. “Biofuels are a key part of the Obama administration's 'all of the above' energy strategy, helping to reduce our dependence on foreign oil, cut carbon pollution and create jobs,” Gina McCarthy, the EPA administrator, said in a statement.

McCarthy said the EPA would continue to work to increase biofuel production and use.

But the move was widely seen as recognition that America's gasoline supply has hit a “blend wall”, and cannot absorb ever-increasing amounts of ethanol.

America's gasoline consumption has fallen as more fuel-efficient and hybrid cars come on to the market. But the absolute numbers of the ethanol quotas kept rising. Motorists were also leery of higher blends of ethanol, such as the 15% and 85% blends on offer. There is also now less concern about developing alternatives to oil, given the boom in America's domestic oil production.

The hoped-for development of next generation biofuels, which do not use food stocks, has failed to materialise, and the oil industry has been fighting for some time to reduce the biofuels quota. Corn ethanol has also lost support from environmentalists, in light of a growing body of evidence that it offers little or no benefit in terms of reducing greenhouse gas emissions and that producing fuel from food was driving up global food prices.

On Friday, both sides of the debate offered support for the administration's decision.

The main oil industry lobby group has been pushing Obama to scrap all of the biofuels quotas, but it said this was a step in the right direction.

“For the first time EPA has acknowledged that the blend wall is a dangerous reality,” Jack Gerard, the president of the American Petroleum Institute, told reporters. “While the agency took a step in the right direction, more must be done to ensure more Americans have a choice of fuels they want.”

The Renewable Fuels Association, which represents ethanol producers, accused Obama of surrendering to the oil industry. “EPA is proposing to place the nation’s renewable energy policy in the hands of the oil companies,” said the RFA president Bob Dinneen.

Parties Line Up to Support, Criticize Proposed 2014 RVO
Opis
November 15, 2013

As expected, members of the petroleum and biofuels industries are lined up on opposite sides of EPA's proposed 2014 Renewable Fuel Standard (RFS) renewable volume obligations.

Under the proposal, EPA would require:

--15.21 billion gal of total renewable fuel, and a range of 15-15.52 billion gal (down from 18.15 billion as originally envisioned);

--13.01 billion gal of conventional biofuel (mostly comprised of corn-based ethanol and down from 14.4 billion gal as originally envisioned);

--2.20 billion gal of advanced biofuel, and a range of 2-2.51 billion gal, (down from 2.75 billion gal as originally envisioned);

--1.28 billion gal (without a range) of biomass-based diesel target for both

2014 and 2015 (above the statutory requirement of at least 1 billion gal, but below the industry's annualized production rate from the last few months of approximately 2 billion gal); and

--17 million gal of cellulosic biofuel, and a range of 8-30 million gal (well below the 1.75 billion gal as originally envisioned).

Even as the EPA was announcing its proposed RVO this afternoon, organizations were staking their positions for upcoming turf battles.

"Clearly we are disappointed in the initial proposal that was released today,"

said Tom Buis, CEO of Growth Energy, in a conference call arranged by several biofuels proponents. "This proposed rule goes directly against the best interests of our nation and American consumers. The RFS is working to reduce our dependence on foreign oil, create jobs, clean our air and save consumers at the pump."

"By re-writing the statute and re-defining the conditions upon which a waiver from the RFS can be granted, EPA is proposing to place the nation's renewable energy policy in the hands of the oil companies," said Bob Dinneen, president and CEO of the Renewable Fuels Association, during the same press conference.

"That would be the death of innovation and evolution in our motor fuel markets, thus increasing consumer costs at the pump and the environmental cost of energy production. This proposal cannot stand."

He referenced a study that found that the proposed reduction in ethanol blending would raise gasoline prices by 5cts/gal.

Meanwhile, from the oil industry's perspective, the proposed RVO is only part of the answer. "EPA's recognition of the blendwall and the potential adverse effects on consumers is a welcome step; however, greater reductions in the biofuel mandate are necessary if consumers are to avoid all the detrimental impacts of the statute. Additionally, EPA's actions can only be short-term in nature and point to the need for Congress to work quickly in addressing the severely flawed and totally outdated Renewable Fuel Standard," said American Fuel & Petrochemical Manufacturers (AFPM) President Charles T. Drevna in a prepared statement.

Here are select comments and early reactions about several hot-button issues raised by the proposal.

Blendwall. The point at which 10% ethanol blends are maxed, and subject of a waiver request from the oil industry in August 2013. At the time, AFPM and the American Petroleum Institute (API) petitioned for a 9.7% cap on ethanol in gasoline, and it is unresolved.

"For the first time, EPA has acknowledged that the blend wall is a dangerous reality and that breaching it would [create] serious impacts on America's fuel supply and would be harmful for American consumers," said API President and CEO Jack Gerard.

"The so-called blendwall is a crisis manufactured by the oil industry, which is interested in eliminating the competition so they can continue reaping even greater windfall profits," said U.S. Sen. Debbie Stabenow (D-Mich.), chairwoman of the U.S. Senate Committee on Agriculture, Nutrition and Forestry. "The proposed rule could cost thousands of good-paying clean energy jobs and mean less competition at the pump. I urge the administration to take a hard look at how this could seriously set back growth at a crucial time when tremendous progress is being made toward commercial-scale production of advanced biofuels."

Cellulosic standard. EPA proposed a cellulosic biofuels RVO of 17 million gal in 2014, down from a previously anticipated level of 23 million gal, which was already far below the cellulosic biofuels anticipated when the rule was written.

EPA is asking for comments on a range of 8 million to 30 million gal for 2014.

"EPA is in the right ballpark for cellulosic biofuels, and we are confident that the final number will be the right one for the industry in 2014," said Brooke Coleman, executive director of the Advanced Ethanol Council.

However, Brent Erickson, executive vice president of Biotechnology Industry Organization's (BIO) Industrial & Environmental Section, called the cellulosic numbers "flawed" and "intolerable," especially when commercial-scale plants are finally coming online.

BIO members will find that investors will react negatively to a paring back of targets. "The research and development catalyzed by [the RFS] program has given birth to biotech innovations for renewable chemicals and other bio-based products," he said. "The current proposal would have the effect of closing the market to renewable fuels and undermining the investment community's confidence in the program, starving advanced biofuel and biotech companies of the capital they need to successfully commercialize new and innovative technologies."

Jeff Lautt, CEO of ethanol producer POET, said that this company's cellulosic plant (corn stover feedstock) will come online in 2014 and will have a capacity of 20 million gal/year. It is one of at least three plants that will be operational next year, thus giving the industry capacity well above the 17 million gal that EPA envisions, he said. "The uncertainty created by the RFS2 creates concerns on the part of our investors and lenders ... making it nearly impossible [for the industry] to do a buildout of cellulosic capacity," he said.

EPA's waiver authority. In its proposal, EPA cites its ability to issue a waiver of higher RVO levels when the industry faces: 1. "Limitations in the volume of ethanol that can be consumed in gasoline given practical constraints on the supply of higher ethanol blends to the vehicles that can use them and other limits on ethanol blend levels in gasoline - a set of factors commonly referred to as the ethanol 'blend wall.'"; or 2. Limitations in the ability of the industry to produce sufficient volumes of qualifying renewable fuel.

The refining industry agreed with that logic. "The fact that EPA must issue a waiver - and will need to continue waiving the ethanol mandate under the RFS in future years - is strong evidence that the program is broken," said AFPM's Drevna. "While we still believe that even further reductions are necessary and warranted, EPA's proposal acknowledges the adverse consumer impacts associated with the RFS."

Biofuels supporters disagreed. "EPA cannot show economic harm ... when ethanol prices are 50 cents or more per gallon below gasoline prices ... and it can't show inadequate domestic supply when we are already producing more than the RVO,"said RFA's Dinneen. "EPA is trying to shoehorn the [refining] industry's distribution of ethanol into the waiver. But that was specifically rejected by Congress when the law was written."

Lawsuits. EPA acknowledged that its reasons for the proposed waiver are controversial, and it issued a separate call for comments on the petitions for a waiver. "EPA expects that a determination on the substance of the petitions will be issued at the same time that EPA issues a final rule establishing the 2014 RFS," the agency wrote.

When asked if RFA would sue if the RVO is not changed after the comment period, Dinneen said, "We will pursue every option." He said that RFA will send comments during the comment period to argue that willingness of refiners to distribute fuels above E10 should not be a factor in EPA's waiver authority. If the blendwall is the reason for the waiver, "litigation would be an option, but we are a long way from there," he said.

Higher-ethanol blends as the solution to the blendwall problem. "We are deeply disappointed in EPA and will try to help them come to their senses before the final rule is published, by helping the administration better grasp the role E15 and E85 can play in meeting the 2014 RFS," said Brian Jennings, executive vice president the American Coalition for Ethanol.

"The EPA's proposal to decrease ethanol requirements will help drivers by preventing a surge in gas prices or the premature expansion of E15 gasoline sales," stated the American Automobile Association in a prepared statement.

"While we would like to increase the use of alternative fuels, it is a plain fact that the Renewable Fuels Standard's original targets are unreachable without putting motorists and their vehicles at risk."

Corn prices and food. "The EPA decision to reduce the corn ethanol mandate is long overdue," said Mark Dopp, senior vice president of regulatory affairs and general counsel, American Meat Institute, in a prepared statement. "Even with a record corn crop expected this year, the damaging ripple effect of this defective policy has been moving through the meat and poultry complex for the past several years. The time for Congressional action is now."

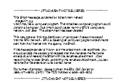
"Corn prices have dropped roughly in half [from their highs] this year, as we produced a record crop," said Roger Johnson, president, National Farmers Union.

But the proposed RVO would "suck out a half-billion bushels [of demand] out of the corn market," and would severely hurt farmers, he said.

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Brent Erickson
Sent: Fri 4/19/2013 3:11:53 PM
Subject: Who killed $2.18 gasoline?

Who killed $2.18 gasoline?

Jim Lane | April 19, 2013



An explosive report from Bloomberg alleges that a pathway to $2.18 per gallon gasoline was developed at Chevron-Weyerhaeuser owned Catchlight Energy. Yet, the project was sidelined. Why?

Was the project really saddled with a threshold ROI 10 percent above Chevron's annual average return on capital?

The Bloomberg investigative team of Ben Elgin & Peter Waldman yesterday published an expose on Chevron trying to undercut California's low-carbon fuel standard. "They say they're pushing back against the California rule because it demands technology that may not be available for years," the team writes, as they detail the derailing of a technology that would have been available at commercial scale as soon as next year, according to the company's own internal documentation.

Impossible?

"We've looked at 100 feedstocks, 50 conversion technologies, worked to shape this law the best we can, and we have not come up with a solution to be able to comply," said Rhonda Zygocki, Chevron's executive vice president of policy and planning, in a Feb. 4 talk at the Commonwealth Club in San Francisco. Rick Zalesky, the Chevron official who celebrated the order's signing with Schwarzenegger, was blunt last June when he declared the low-carbon standard "not achievable."

A contrasting view

"You can make money today making advanced biofuels," Bloomberg quoted former Chevron biofuels VP Paul Bryan in the report. "You just won't make as much money as the oil companies would like."

Was there really a project at Chevron that could profitably make renewable gasoline at $2.18 per gallon?

Apparently, yes. Catchlight Energy, a joint venture of Chevron and Weyerhaeuser — have such a technology. But let's put some qualifiers on that. It was at pilot stage. The Bloomberg report points to "a $504 million solvent liquefaction plant producing 92 million gallons a year at a cost of $2.18 a gallon." Did that include the capital investment — not clear, and could have added $0.36 per gallon (amortized over 15 years).

But certainly, competitive with the cost of making gasoline when the Brent Crude benchmark has been between $93 and $115 per gallon this year.

What happened?

The Bloomberg report points to an internal Chevron report written in 2009, that concluded it would be cheaper to buy renewable energy exemptions than make renewable fuel.

According to Bloomberg, a few months after the report appeared, Catchlight's budget was scaled back. Originally the venture was intended to build 17 plants by 2029, making 2 billion gallons of renewable fuel, starting with a $370 million commitment by 2013 and a first commercial plant in 2014.

The projects were projected to make a return on investment of between 5 and 10 percent per year, compared to Chevron-wide average return of 17 percent. According to Bloomberg, the Catchlight board said in April 2010 that there was "no urgency in advancing the technology, set the minimum annual return at 20 percent to greenlight a project, and reduced Catchlight's 2013 budget from $370 million to $8.9 million.

Chevron's overall capital budget this year? $33 billion. Net income? $26.2 billion on $222.6 billion in sales, according to Bloomberg.

It's the money, honey.

Desmond King, president of Chevron Technology Ventures, told Bloomberg "It all comes down to getting good enough returns for our shareholders."

Ironically, RIN prices (the currency of renewable fuel mandate compliance) have soared this year and high prices are being cited as a reason to repeal the Renewable Fuel Standard.

"Something's got to be done, so we're doing it."

Bloomberg pointed to the irony of a 2010 Chevron advertising campaign.In October

2010, six months after Chevron and Weyerhaeuser put the brakes on at Catchlight, Chevron ran television and print ads about its work on non-petroleum fuels. “Something’s got to be done. So we’re doing it,” the ads said. “We’re not just behind renewables. We’re tackling the challenges of making them affordable and reliable on a large scale.”

R&D spending offloaded to the Feds

According to Bloomberg, R&D on solvent liquefaction is now reduced primarily to a $3.5 million program at Iowa State, $2.8 million funded by a federal grant and $700,000 by Catchlight.

More on Fueling California

The article also traces the ratchet-back of efforts at ExxonMobil to develop algal biofuels — and points to a new strategy among oil companies based on funding lobbying efforts to repeal or slow renewable fuel mandates, saying that they are unworkable based on current technology.

The Bloomberg team traces well-funded attempts to derail California’s Low Carbon Fuel Standard — including Chevron and ExxonMobil’s funding of Fueling California, “an advocacy group whose major funder is Chevron and that spent more than $327,000 in 2011 and 2012 lobbying on fuel and transportation policies” — and which has targeted a slowdown in implementing California’s Low Carbon Fuel Standard.

The bottom line

We’ve seen much of this before in the kinds of charges that are often leveled at oil companies — toxic levels of cynicism in public relations, capitalism run amok, projects subject only to economic sustainability, leaving someone else to clean up the carbon.

But there’s something here that we see less often. The bottling up of game-changing technologies, a tying up of talent.

Here’s the pattern: bend to public will when mandate efforts become popular, establish big projects, hire top R&D talent and bottle up IP to prevent technology spread, kill off the projects with absurd profit requirements, cite lack of feasible technology as a reason to kill or delay mandates, and then lobby like crazy to get back to the status quo.

True? Fair? Let’s explore in the days and weeks to come.

At the very least, Chevron has some explaining to do.

We’ve offered Chevron space in the Digest to set out their view. We invite others to reach out to the Digest and share what they know.

Not in a spirit of agenda-ranting, but a spirit of nuanced debate between grown-ups as they tackle real issues, navigate opportunity, and balance social and financial obligations.

The full Bloomberg report is published here.

Brent Erickson

Executive Vice President

Industrial and Environmental Section

Biotechnology Industry Organization (BIO)

1201 Maryland Ave. S.W. , S. 900

Washington, D.C. 20024

(b) (6) [redacted]

For further information, please contact the EPA Call Center at
(866) 411-4EPA (4372). The TDD number is (866) 489-4900.

********************** ATTACHMENT NOT DELIVERED **********************

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Brent Erickson
Sent: Thur 4/18/2013 6:31:58 PM
Subject: BIO QAP Final
Final Draft Revised BIO Comments on EPA RIN Proposal 04 15 13.pdf

FYI

Brent Erickson

Executive Vice President

Industrial and Environmental Section

Biotechnology Industry Organization (BIO)

1201 Maryland Ave. S.W. , S. 900

Washington, D.C. 20024

(b) (6) [redacted]

Biotechnology Industry Organization

April 18, 2013

Air and Radiation Docket and Information Center — via email at: *a-and-r-docket@epa.gov*
Environmental Protection Agency
Mailcode: 2822T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Docket ID No. EPA–HQ–OAR–2012–0621: RFS Renewable Identification Number (RIN) Quality Assurance Program

The Biotechnology Industry Organization ("BIO") appreciates the opportunity to comment on the U.S. Environmental Protection Agency's ("EPA") proposed rule to establish a RFS Renewable Identification Number ("RIN") Quality Assurance Plan ("QAP") ("proposed rule" or "proposed QAP").

BIO is the world's largest biotechnology organization, with more than 1,100 member companies worldwide. BIO represents leading technology companies in the production of conventional and advanced biofuels and other sustainable solutions to energy and climate change. BIO also represents the leaders in developing new crop technologies for food, feed, fiber, and fuel.

BIO Commends EPA for Its Commitment to Ensuring the Success of the RFS and All

Producers

BIO commends EPA for its steadfast commitment to ensuring the federal Renewable Fuel Standard ("RFS") works as intended to promote the development and commercialization of a U.S. biofuels industry to help further this country's energy security and independence. BIO supports EPA's efforts to ensure the stability of the RIN market, which is important to the functionality and effectiveness of the RFS.

The RFS is the single most important federal policy driving investment and commercialization of conventional and advanced biofuels. Investment spurred by the RFS has led to the development of commercial-scale advanced and cellulosic biofuel facilities that are currently in the process of starting up production of qualifying renewable fuel. Additional projects are also already under construction or planning to start production in the next few years. Each represents several hundred million dollars of at-risk capital. EPA's consistent and carefully balanced implementation of the RFS has provided these advanced biofuel developers and investors with the confidence of knowing that if they can produce advanced and cellulosic biofuels, they will be able to access the market.[1] Stable, consistent, predictable implementation of the RFS has helped such companies commercialize new fuels that meet the nation's goals for energy security and a cleaner environment.

Advanced biofuel companies just achieving commercial production status must also invest time and money in meeting the regulatory requirements both for Registration of Fuels and Fuel Additives (Title 40 CFR §79) and for RFS2 Registered Renewable Fuel Producers (Title

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[1] "The value proposition for cellulosic and advanced biofuels under the US federal renewable fuel standard." Ind. Biotech. J. 7(2), April 2011. doi:10.1089/ind.2011.7.111.

40 CFR §80.1450). Prior to generating RINs, a renewable fuel producer must have an independent third-party engineering review and verification of its facility's capacity to produce fuel an co-products, its feedstocks and suppliers, its process heat source and suppliers, its waste separation plan (if needed), along with required permits. Regulatory delays and barriers in these registration processes are already a significant challenge for advanced biofuel companies trying to commercialize new technology. Federal policies, including the proposed QAP, should clear a path for companies making investments, building new biorefineries and bringing innovative technologies to the marketplace.

BIO was encouraged by EPA's recent approval of cellulosic biofuels from camelina and energy cane.[2] These approvals have helped to expand access to the RFS by nascent biofuel producers, as there are now five pathways for producing qualifying cellulosic biofuels and generating RINs in the RFS program. However, additional companies continue to await approval of their proposals to generate qualifying cellulosic and advanced biofuels. These regulatory pathway delays, for example, can stall private investment and the companies' progress in achieving commercial scale production. BIO stands ready to work with EPA to remove regulatory barriers to access of the RFS, including by expediting pathway approval in the near future and helping to ensure steps to increase liquidity in the RIN market comport with the capabilities and resources of *all* current and prospective biofuel producers.

The Final Rule Should Not Contain Duplicative Requirements for Biofuel Producers

BIO recommends that EPA modify the proposed QAP to ensure the final plan does not include duplicative engineering review and attest engagement requirements for biofuel producers. The proposed QAP audits duplicate to a large degree the engineering review and attest engagement requirements for CFR §79 and §80 under the Clean Air Act and RFS. EPA even notes this redundancy in the proposed rule.[3]

BIO recommends two changes to the proposed rule so that the final plan will not include unnecessary, duplicative and burdensome requirements on biofuel producers, especially less well capitalized smaller producers that should be encouraged to make RFS qualifying fuel.

First, in the final rule, EPA should fully develop its proposal "that a separate engineering review would no longer be required if a facility is covered by an Option A QAP" [proposed rule p.12170]. ***BIO recommends that both Option A and B QAP audits should replace the requirement for separate engineering reviews as well as for annual attest engagements, which are also duplicated by the proposed QAP audits.*** Elimination of duplicative regulatory requirements can reduce the overall costs of the program for renewable fuel producers and is consistent with Executive Order 13563.[4]

Second, ***BIO recommends that advanced and cellulosic biofuel producers just entering the market at commercial scale---and whose feedstocks, technology and operations will have just been highly scrutinized---should be considered fully verified under the QAP for the first three years of operation following their***

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[2] Regulation of Fuels and Fuel Additives: Identification of Additional Qualifying Renewable Fuel Pathways Under the Renewable Fuel Standard Program (Mar. 5, 2013), 78 Fed. Reg. 43.
[3] Proposed Rule at 12169, "Note that the components proposed for monitoring, whether on an ongoing or periodic basis, are components that are already regulated under the RFS program."
[4] Executive Order 13563 of January 18, 2011, Improving Regulation and Regulatory Review. Fed. Reg. Vol. 76, No. 14, Friday, January 21, 2011.

registrations. CFR § 80.1441 provided a similar three-year exemption for small refineries, which was extended for specific small refineries for an additional two years. This exemption would help level the playing field between large well-capitalized and established producers and small undercapitalized and nascent producers. Moreover, it would ensure against imposing duplicative and burdensome requirements on small advanced and cellulosic producers like the ones they had to comply with during the extensive registration processes. Given the fact that these producers will have just gone through the registration processes, EPA, obligated parties and participants in the RIN market can be assured their RINs will be valid.

EPA Should Work to Eliminate Unnecessary and Burdensome Costs to Producers in the Final Rule

The proposed QAP would place unnecessary and burdensome costs on biofuel producers—especially small producers recently achieving commercial status—which would not outweigh the potential benefits of the program on the RIN market. BIO recommends several changes to the proposed QAP to help ensure the RFS policy continues to encourage *all* biofuel producers to generate RINs.

The cellulosic biofuel industry, in particular, has received intense scrutiny from EPA, the U.S. Energy Information Administration ("EIA"), other interested agencies, Congress, the press and obligated parties.[5] *The risk of fraudulent RIN generation under such scrutiny is significantly low that it does not warrant prohibitive costs for these producers to further ensure the validity of their RINs.* Further, such prohibitive costs would exacerbate the current market reality where some pilot and demonstration cellulosic facilities are already discouraged from registering to begin generating RINs while they are testing new feedstocks, because of the requirements of CFR §80. Several of these advanced biofuel producers are currently awaiting pathway approvals. Each of their changes to tested feedstocks could require new QAPs, further discouraging small facilities from generating RINs and reducing liquidity in the RIN market.

EPA underestimates the cost burden of the QAP on biofuel producers, particularly on small advanced and cellulosic producers and producers of feedstock agnostic biofuels. The Agency estimates the cost to the renewable fuel producer of implementing a QAP to be $8,370. However, EPA likely mistakenly assumes that costs would not vary significantly among the various D codes of RINs[6] and that costs to producers would not vary significantly among nascent and established producers, and producers of the four categories of biofuels to generate RINs under the RFS. In fact, the costs would vary considerably according to the D-Code of the renewable fuel produced. And given the smaller number of cellulosic and advanced biofuel producers and the lower current volumes, the costs of replacing invalidated RINs in those categories would be much higher.

EPA does note that the biggest cost differences will occur in feedstock verification. This cost will impact cellulosic and advanced feedstocks more than conventional feedstocks because there are higher requirements for lifecycle greenhouse gas emission analysis and in several cases a requirement for additional regulatory approval of a feedstock separation plan. In addition, many advanced and cellulosic biofuels are feedstock agnostic. Under the current

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[5] See for instance, "AFPM Updates Public Statement on Request to Waive 2012 Cellulosic Biofuel Mandate," Jan. 11, 2013, http://www.afpm.org/news-release.aspx?id=3497.
[6] See proposed rule at 12203.

proposal, these producers would be required to secure a separate QAP for each feedstock used.

The markets for cellulosic and advanced feedstocks are in some cases still maturing, meaning there are smaller volumes being traded and less economy of scale. The wider variety of cellulosic and advanced feedstocks will likely further impose higher costs on these renewable fuel producers, particularly if "a separate QAP is required for each pathway," [p.12173] as EPA proposes, and auditors are required to make direct contact with all feedstock suppliers to the facilities, under §80.1472(a)(4). Because they are building first-of-a-kind biorefineries with local feedstocks and novel technologies, nearly every cellulosic biofuel company currently registered under CFR §80 or expected to register in the next three years could require a separate QAP, which will significantly increase costs to those producers compared to others.

There are several other factors that will likely increase the cost burden of the program on small advanced and cellulosic biofuel producers. For instance, the need for multiple QAP plans for cellulosic and advanced pathways coupled with the small number of potential facilities as customers (further reduced because participation in the QAP program is intended to be voluntary) is likely to force auditors to increase the costs of the plans for cellulosic and advanced pathways.

In addition, of the auditors who have submitted QAP plans for pre-approval, only one is offering verification for cellulosic pathways, and only under Option B. The lack of competition and choice among auditors and plans would also drive higher costs for renewable fuel producers. Since EPA indicates that RIN market participants may choose a different QAP option "for any given RIN transaction" [p.12165], the costs for participation by new and smaller producers could be significantly higher than for larger producers, while the benefits could be much more limited.

EPA also recognizes that "different third-party auditors would develop different audit procedures and business models" [p.12165]. This variation raises the possibility that some QAP auditors would be more trusted by obligated parties, thereby creating more value for the RINs they verify.

Given the significant costs involved and low risk of invalid RINs, ***BIO strongly urges EPA to eliminate the quarterly audit requirements under the proposed QAP options for newly registered renewable fuel producers.*** We believe leaving the requirements in the final rule would exacerbate the imbalance in the costs for participation in the QAP.

BIO also urges EPA to consider allowing QAP auditors to trade RINs because doing so could potentially reduce the costs of the QAP both for auditors and renewable fuel producers. By taking ownership of RINs for trading, the auditors would become statutorily responsible for the validity of the RINs. It should be well-noted by all RIN market participants that one of the parties recently convicted of selling $9 million in fraudulent RINs was assessed $42 million in civil liabilities by the courts.[7] BIO believes this statutory responsibility would outweigh EPA's concern that "a conflict of interest may exist if the independent third-party implementing a QAP for a renewable fuel production facility was the

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[7] EPA news release, http://yosemite.epa.gov/opa/admpress.nsf/d0cf6618525a9efb85257359003fb69d/499ba7061892802085257b1a006f9522!OpenDocument

same party that conducted the facility's engineering review required under §80.1450(b)(2)" [p.12187].

Lastly, ***BIO urges EPA to consider that the costs of participation in the QAP are expected to be reflected in the price of the renewable fuel produced and eventually in the price of fuel for end consumers.*** Obligated parties have already complained that increased RIN prices will cost consumers $13 billion in increased fuel prices at the pump.[8]

EPA Should Ensure the QAP in the Final Rule is Truly Voluntary and Facilitates a Level Playing Field for Both Large and Small Biofuel Producers to Help Fulfill the RFS

BIO urges EPA to make changes to the proposed rule to ensure that it is truly a voluntary program in practice, as it is intended to be. Making the program truly voluntary will help level the playing field between large and small producers, and help ensure that all producers remain encouraged to participate in the RFS. In its current form, the proposed QAP likely will not be voluntary in practice, at least for small advanced and cellulosic producers, as they likely will be pressured by market realities to participate, even if they have confidence in the validity of their RINs or if they would not be able to capture additional value for their verified RINs to justify the cost of participation.

EPA shows significant concern for existing inequalities in RIN values, noting, "some RINs have been treated as having more value and less risk than others" [p.12160] and "[s]maller producers have been forced to offer their RINs at a significant discount relative to RINs from larger producers" [p.12163]. Yet, EPA also notes that under the proposed QAP, verified RINs will be more valuable than unverified RINs. *EPA therefore should be wary of creating a system that competing companies and industries can use to raise costs to an intolerable level and drive small renewable fuel producers from the market place.*

EPA recognizes that already, without the proposed QAP in place, "individual obligated parties are now conducting their own audits of renewable fuel production facilities" [p.12160]; including "indemnification clauses in the contracts with RIN suppliers" [p.12163]; and "opting instead to purchase RINs primarily from the largest biodiesel producers" [p.12163]. *EPA should therefore recognize that obligated parties have significant leverage within the RFS program to impose costs and conditions on renewable fuel producers as well as to selectively identify and trade RINs from certain producers within the EPA Moderated Transaction System (EMTS).*

In practice, EPA's proposed QAP likely would not be a truly voluntary program and could impose overly burdensome and unnecessary costs and regulatory complexity on renewable fuel producers. Obligated parties have sufficient leverage within the existing regulations to require renewable fuel producers to participate as a condition of trading volumes of renewable fuel in the RFS program. For instance, currently, EMTS

> "allows a RIN account holder to block RINs generated by specific companies and/or facilities. EMTS now also allows a RIN transferee to review details of RINs offered by

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[8] Bradley Olson & Dan Murtaugh, "Ethanol Upending Refiners Pushes $13 Billion on U.S. Drivers," Bloomberg, March 18, 2013, http://www.bloomberg.com/news/2013-03-18/refiners-pay-price-as-traders-hoard-ethanol-credits-valero-says.html.

a transferor, such as the RIN generators' company and facility ID numbers, prior to accepting or rejecting the transaction. In this way, a RIN account holder can protect himself or herself from being transferred RINs generated by a company with whom the RIN account holder chooses not to do business, even if indirectly."[9]

Flexibility and transparency in RIN trading benefits all, but it should not facilitate the imposition of costs by one party on a competitor.

Renewable fuel producers and petroleum refiners are competitors. In partially granting the American Petroleum Institute's recent "Petition for Review of Final Agency Action," the United States Court of Appeals for the District of Columbia Circuit ("The Court") indicated that, "[a]part from their role as captive consumers, the refiners are in no position to ensure, or even contribute to, growth in the cellulosic biofuel industry."[10] Especially given this recent assertion by the Court, EPA's final QAP should not unintentionally give refiners added power to contribute to delays in the growth of the cellulosic biofuel industry by imposing unwarranted costs and regulatory complexity on them. ***We urge EPA to rigorously ensure that the rules of the QAP do not enable and facilitate potentially discriminatory and anti-competitive behavior by obligated parties against biofuel producers, particularly small biofuel producers.***

Especially given the current ability of the EMTS to enable due diligence against RIN fraud, the potential costs of the proposed QAP are disproportionate to its potential rewards for renewable fuel companies that have not yet actively participated in the RIN market. Cellulosic biofuel producers in particular may be unable to capture additional value for verified RINs because the RFS program provides obligated parties a compliance option for cellulosic renewable volume obligations (RVO) that does not exist for other RVOs. The cellulosic waiver credit was designed to establish an upper bound for the value of a cellulosic biofuel gallon and assigned RIN as well as to ensure liquidity in the RIN market.[11]

If EPA adopts its proposal for EMTS to track and display RIN verification status, the RINs of cellulosic biofuel producers should be granted equivalence with Option A RINs – regardless of the QAP option chosen. We recommend this action because there are no approved QAPs utilizing Option A for cellulosic RINS. Cellulosic producers should not be disadvantaged by having only one QAP option when other types of producers all have two. This is especially true if EPA chooses to distinguish between verified and non-verified RINs within EMTS.

This action will also mitigate the risk that obligated parties will be able to use EMTS to block competing renewable fuel producers from full participation in the RIN market.

It is misguided to "expect that most RINs purchased and used for compliance purposes will be QAP-verified even though the program is voluntary because most obligated parties in most situations will prefer not to take on the risk of using an unverified RIN" [p.12167]. Obligated parties should be expected to seek to comply with the RFS at the lowest cost to

[9] Regulation of Fuels and Fuel Additives: Modifications to Renewable Fuel Standard Program (Tuesday, December 21, 2010), Federal Register Volume 75, Number 244, FR Doc No: 2010-31910.
[10] American Petroleum Institute v. EPA, Advanced Biofuels Association, et al., USCA No. 12-1139, Jan.25, 2013.
[11] See Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program; Final Rule, (March 26, 2010) Fed.Reg. Vol. 75, No. 58, II.I.3, p.14727.

themselves, their customers and end consumers. Obligated parties may not require a QAP as a condition for trading RINs from larger, well-established producers who, as EPA notes, "are better known, have been under production for a longer period of time, and/or have the resources to replace invalid RINs" [p.12163]. *Larger producers – already potentially able to produce lower cost fuel through economies of scale – may not feel the need to participate in a QAP and would thereby be able to provide fuel at a lower cost than small producers.*

There is no guarantee that obligated parties will favor verified RINs, since they generally view them as a burdensome compliance cost. Small producers forced to use a QAP option by obligated parties could see significantly higher costs with no corresponding enhancement in their participation in the RFS. There is no guarantee that, "[a]s a result, verified RINs would be more valuable than RINs from a facility that had not been verified through a third-party auditor" [p.12170].

Recommendations to Ensure QAP is Truly Voluntary and Provides a Level Playing Field Between Large & Small Producers

1. ***EPA should not use EMTS to designate verified and unverified RINs.*** As noted earlier, EMTS already gives RIN traders extraordinary flexibility to block trading of RINs from certain renewable fuel producers. If EPA adopts its proposal for EMTS to track and display RIN verification status, D3, D7 and certain D5 RINs from newly registered renewable fuel facilities should be granted equivalence with Option A RINs – regardless of the QAP option chosen or whether the company is participating in a QAP.

2. ***EPA should not require third parties to hold RINs for some period of time.*** One of EPA's stated goals is to increase liquidity in the RIN market. Two of the proposed RIN replacement mechanisms under Option A would reduce liquidity in the market by requiring third parties to hold RINs for some period of time. Companies have produced very few D3 and D7 RINs to date and the industry is only expected to ramp up first-of-a-kind facilities in the next few years. Companies have also produced relatively few D5 RINs for Biogas and Renewable Diesel, with inconsistent year-over-year production. Holding RINs from the market for these categories of fuel would severely reduce liquidity in the market.

3. ***EPA should not publicly distinguish between verified and un-verified RINs as a potential replacement for invalidly generated RINs, since EPA's goal is to ensure that renewable fuel is produced and used in the United States.*** EPA argues that "RINs verified under the two options could have different prices even though they have the same D code" [p.12179]. However, the only meaningful distinction for satisfying the goals of the RFS would be between valid and invalid RINs. EPA should seek to minimize the differences between verified and unverified RINs, particularly under a voluntary program, and again should not use EMTS to designate verified and unverified RINs.

Additional Recommendations for Improving the Proposed QAP

Above, BIO recommends that EPA give Option A value to all RINs from newly commercialized cellulosic producers since there is no QAP for cellulosic biofuel producers under Option A. Even if EPA decides against this treatment for cellulosic producers, ***BIO recommends that EPA revise the proposed rule to allow cellulosic producers to submit a QAP plan specific to their facilities..*** This QAP option for newly registered cellulosic fuel producers would help equalize liability for invalidated RINs, improve liquidity and confidence in the RIN market, and enhance the ability of small producers to participate in the RFS. The RFS rules at §80.1465(h) require foreign refiners to post a bond to be used to satisfy any judicial judgment that results from an action for violation of the subpart.

Similarly, under this self-verification option, cellulosic producers could be required to post a bond of sufficient size to satisfy the purchase price of cellulosic waiver credits, equal to 2 percent of annual production, to replace potentially invalidated RINs. Such a bond could mitigate the perceived risk that obligated parties currently associate with RINs from small or new producers.

Since, in all cases, the RIN generator is primarily responsible for replacing invalidly generated RINs, a financial assurance instrument similar to the bond requirement for foreign RIN generators at §80.1465(h) would be most appropriate for the auditor. At a minimum, this requirement would ensure that invalidly generated cellulosic gallons could be replaced by cellulosic waiver credits, which were also established to ensure liquidity in the RIN market for that RVO.

The higher costs of the plans and the statutorily limited value of cellulosic RINs are likely to continue to limit QAP plan applications for QAP plans for cellulosic and certain advanced pathways. The required expertise to conduct engineering and feedstock reviews as well as elements of attest engagements could also limit the pool of qualified applicants. Therefore, ***the qualifications for auditors should be the same as those offering third-party engineering reviews and attest engagement services. And, to the greatest extent possible, EPA should avoid duplication of the requirements for these third-party reviews.***

RIN Separation

BIO opposes new limits on separation of RINs by producers. The RFS program was clearly designed to permit some fuel retailers to utilize more than their obligated volume of renewable fuels and trade credits to those who use less. Renewable producers who sell neat fuel or higher renewable content blends directly to end users qualify to participate fully in the system. Renewable fuel producers who sell directly to end users are employing a business model similar to that of petroleum refiners. To block their participation in the RFS program and RIN market would unjustifiably block competition in the fuel market.

Conclusion

In implementing a Quality Assurance Plan or any other proposed changes to the RFS, EPA should seek to ensure and improve the ability of small producers to participate in the fuels program. One of the key contemporary problems that EPA seeks to address is the inability of small producers to sell RINs. EPA should therefore seek to equalize the value of the RINs of small and large producers, through appropriate measures to further enable RIN traders to conduct due diligence. The EMTS system currently enables RIN traders to enforce due diligence by blocking trades from specific companies; EPA should ensure the final rule does not enable RIN traders to engage in anti-competitive behavior.

Small producers, in particular, are being asked to incur costly and duplicative reviews of their facilities in exchange for verified status for RINs. There is no guarantee in the proposed QAP that verified RINs will provide a return on those costs. Yet, there is the potential that competitors can force these costs on small producers as a condition for RIN trading, thereby increasing costs to an intolerable level.

In the case of cellulosic producers, the return on value of RINs is limited by a pre-existing market liquidity instrument, the cellulosic waiver credit, and the fact there is only one approved Option B QAP plan. Cellulosic producers in particular may be blocked from recouping the costs of participation in the program. Further, these producers are only now entering the RIN market and have been more intensely scrutinized by EPA and other participants in the RIN market. Appropriate regulatory relief from the QAP is justified for these producers through an exemption from the program. At the same time, if EPA implements measures that create tiered values for verified and unverified RINs and identify them in EMTS, EPA should exempt cellulosic and advanced producers by granting them verified status.

Alternatively, it would be appropriate to create an Option within the QAP for cellulosic and advanced producers to submit a QAP plan specific to their facilities. As part of this Option, producers could post a bond similar to that used by foreign refineries. This bond – in conjunction with existing measures that enable due diligence – would help to build confidence among RIN traders and enhance liquidity within the market for small producers.

Sincerely,

Brent Erickson
Executive Vice President
Biotechnology Industry Organization